

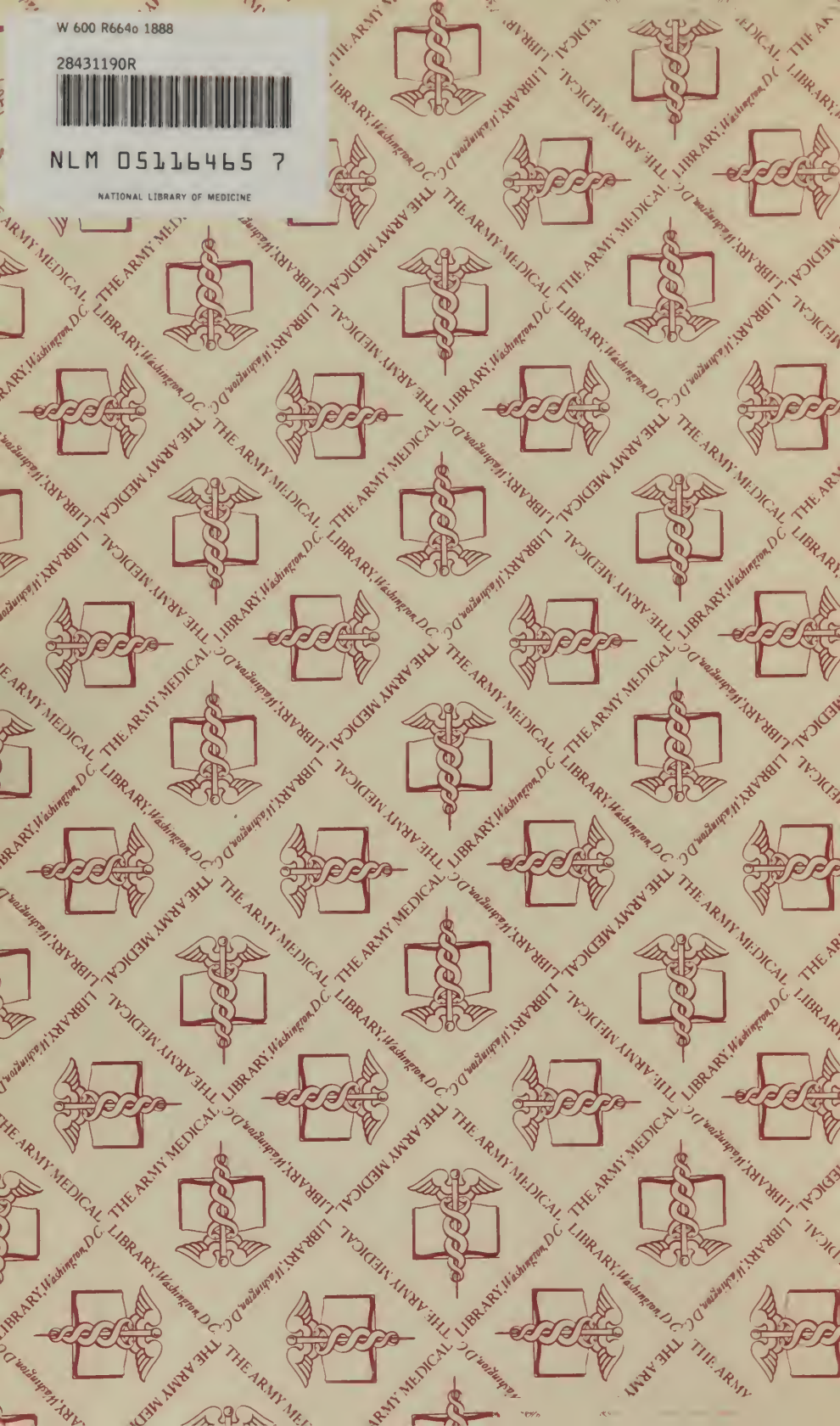
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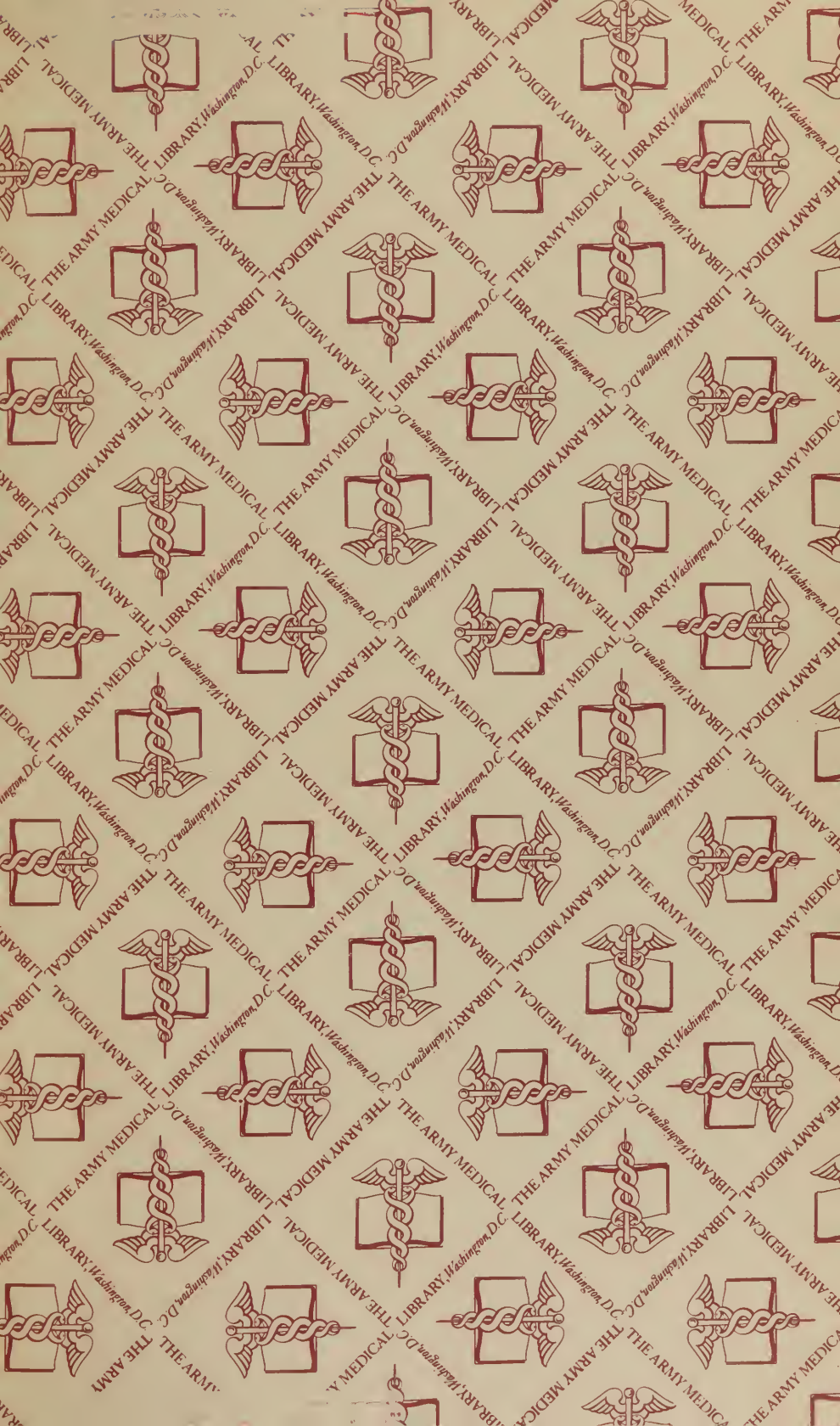
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THE
OFFICIAL REPORT
OF THE
TRIAL OF SARAH JANE ROBINSON

FOR THE MURDER OF
PRINCE ARTHUR FREEMAN,
IN THE
SUPREME JUDICIAL COURT OF MASSACHUSETTS,

FROM NOTES OF MR. J. M. W. YERRINTON.

PUBLISHED BY
THE ATTORNEY GENERAL, UNDER CHAPTER 214 OF ACTS OF 1886.



BOSTON:
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CHAP. 214, ACTS OF 1886.

AN ACT

PROVIDING FOR PUBLISHING REPORTS OF CAPITAL TRIALS.

Be it enacted, etc., as follows:

SECTION 1. The attorney-general, with the approval of the governor and council, may prepare and publish such reports of capital trials in the Commonwealth as he deems expedient for public use, to be distributed one copy each to the various public and law libraries of the Commonwealth, and the balance may be sold, or otherwise disposed of, at the discretion of the secretary of the Commonwealth: *provided*, that not more than fifteen hundred dollars shall be expended in any one year in carrying out the provisions of this act.

SECTION 2. This act shall take effect upon its passage.

Approved May 14, 1886.

Commonwealth of Massachusetts.

COUNCIL CHAMBER, BOSTON, June 21, 1888.

ORDERED: That the Attorney-General be authorized to prepare and publish a report of the capital trial of Sarah Jane Robinson, as provided by Chapter 214 of the Acts of 1886.

Adopted.

HENRY B. PEIRCE,
Secretary.

SECRETARY'S DEPARTMENT, BOSTON, June 21, 1888.

A true copy.

HENRY B. PEIRCE,
Secretary of the Commonwealth.

PREFATORY.

At the October sitting of the Grand Jury for Middlesex County for 1886 two indictments were found, of the following tenor, to wit:—

No. 428. *Commonwealth v. Sarah J. Robinson, Charles C. Beers and Thomas R. Smith*, for the murder of *William J. Robinson*, son of said Sarah J., on the ninth day of August, 1886, by administering arsenic.

No. 429. *Commonwealth v. Sarah J. Robinson, Charles C. Beers and Thomas R. Smith*, for the murder of *Lizzie A. Robinson*, otherwise called *Elizabeth A. Robinson*, daughter of said Sarah J., on the first day of February, 1886, by administering arsenic.

At the February sitting of the Grand Jury for Middlesex County for 1887 four indictments were found, of the following tenor, to wit:—

No. 430. *Commonwealth v. Sarah J. Robinson*, for the murder of *Prince Arthur Freeman*, her brother-in-law, on the twentieth day of June, 1885, by administering arsenic.

No. 431. *Commonwealth v. Sarah J. Robinson*, for the murder of *Oliver Sleeper*, her landlord, on the first day of August, 1881, by administering arsenic.

No. 432. *Commonwealth v. Sarah J. Robinson*, for the murder of *Moses Robinson*, her husband, on the first day of July, 1882, by administering arsenic.

No. 433. *Commonwealth v. Sarah J. Robinson*, for the murder of *Thomas Arthur Freeman*, her nephew, on the first day of July, 1886, by administering arsenic.

On the fourteenth day of December, 1886, SARAH J. ROBINSON, CHARLES C. BEERS and THOMAS R. SMITH were arraigned upon the indictment for the murder of WILLIAM J. ROBINSON, and to which they all pleaded Not Guilty, and the twelfth day

of December, 1887, was fixed for their trial. On that day, at the court house in East Cambridge, before Justices FIELD and KNOWLTON, of the Supreme Judicial Court, the trial of Mrs. ROBINSON commenced, Attorney-General A. J. WATERMAN and District-Attorney W. B. STREVS appearing in behalf of the Commonwealth, and JOHN B. GOODRICH of Newton and DAVID F. CRANE of Somerville, esquires, who had been assigned by the court, appeared for the prisoner. Before the trial commenced a *nolle prosequi* was entered by the Attorney-General to so much of the indictment as related to CHARLES C. BEERS and THOMAS R. SMITH, and the trial proceeded against SARAH J. ROBINSON alone.

This trial lasted six days, and resulted in a disagreement of the jury, after a deliberation of nearly twenty-four hours. At this trial, evidence of the defendant's poisoning her son, WILLIAM J., only was admitted, as the Commonwealth could not connect the cause of the deaths of the other persons, alleged to be poisoned, with the case on trial.

On the sixth day of February, 1888, SARAH J. ROBINSON was placed on trial upon the indictment for the murder of her brother-in-law, PRINCE ARTHUR FREEMAN, by administering arsenic to him, and the following is a report of the proceedings thereat.

REPORT
OF THE
TRIAL OF SARAH JANE ROBINSON
FOR THE
MURDER OF PRINCE ARTHUR FREEMAN.

SARAH J. ROBINSON, indicted for the murder of PRINCE ARTHUR FREEMAN by the Grand Jury for the County of Middlesex, on February 12th, 1887, was put on trial on the sixth day of February, 1888.

The court (Justices FIELD and KNOWLTON) came in at ten o'clock.

Attorney-General WATERMAN and District-Attorney WILLIAM B. STEVENS appeared for the Government, and JOHN B. GOODRICH, Esq., as Senior Counsel, and DAVID F. CRANE, Esq., as Associate Counsel, for the defendant.

The prisoner was placed at the bar and the jury was impanelled to try SARAH J. ROBINSON for the murder of PRINCE ARTHUR FREEMAN.

The impanelling of the jury then proceeded, the usual questions being put, and the following persons were duly sworn : —

DANIEL W. FLETCHER of Ayer,
JAMES L. PARKER of Stow,
GEO. A. H. RICHARDSON of Dracut,
HERBERT SEAVERN of Weston,
GEORGE F. KEYES of Boxborough,
WALTER R. TAYLOR of Waltham,

JOHN H. TEMPLE of Framingham,
JESSE H. SHEPARD of Lowell,
ADELBERT H. CARTER of Reading,
JOHN H. WILLIARD of Lexington,
EDWARD A. HOLYOKE of Hudson,
GEORGE E. STEARNS, 2d, of Billerica.

The court appointed EDWARD A. HOLYOKE foreman of the jury.

The clerk then read the following indictment, to which the prisoner pleaded Not Guilty :—

COMMONWEALTH OF MASSACHUSETTS.

MIDDLESEX, SS. :

At the Superior Court, begun and holden at Cambridge, within and for the county of Middlesex, on the second Monday of February in the year of our Lord one thousand eight hundred and eighty-seven.

The jurors for the Commonwealth of Massachusetts on their oath present : That Sarah J. Robinson, late resident of Somerville, in the county of Middlesex and Commonwealth aforesaid, on the twentieth day of June in the year of our Lord one thousand eight hundred and eighty-five, with force and arms at Cambridge, in the county aforesaid, in and upon one Prince Arthur Freeman, feloniously, wilfully and of her malice aforethought did make an assault, and to him, the said Prince Arthur Freeman, did feloniously, wilfully and of her malice aforethought then and there give and administer, in some way and manner and by some means to the jurors aforesaid unknown, a certain large quantity, to wit : ten grains of a certain deadly poison called arsenic, she, the said Sarah J. Robinson, then and there well knowing the same to be a deadly poison, with the intent that the said Prince Arthur Freeman should then and there take and swallow down the same into his body ; and that the said Prince Arthur Freeman the said arsenic, so given and administered as aforesaid, did then and there take and swallow into his body, the said Prince Arthur Freeman not then and there knowing the same to be a deadly poison ; by means whereof the said Prince Arthur Freeman became mortally sick and distempered in his body, and the said Prince Arthur Freeman of the poison aforesaid, so by him taken and swallowed down as aforesaid, and of the sickness and distemper occasioned thereby, from the said twentieth day of June in the year aforesaid until the twenty-seventh day of said June in the year aforesaid at Cambridge aforesaid, in the county of Middlesex aforesaid, did languish, and languishing did live : on which said twenty-seventh day of June in the year aforesaid at Cambridge aforesaid, in the county of Middlesex aforesaid, the said Prince Arthur Freeman of the poison aforesaid, and of the sickness and distemper occasioned thereby, died. And so the jurors aforesaid, on their oath aforesaid, do say that the said Sarah J. Robinson, in manner and form aforesaid, the said Prince Arthur Freeman

feloniously, wilfully and of her malice aforethought did poison, kill and murder, against the peace of the said Commonwealth and contrary to the form of the statute in such case made and provided.

A true bill :

WILLIAM B. STEVENS,
District Attorney.

MARCELLUS HOUGHTON,
Foreman of the Grand Jury.

The foregoing is a true copy :

Attest, THEO. C. HURD,
Clerk.

FIELD, J. Is any one of the panel a member of the United Order of Pilgrim Fathers, or interested in that Order in any manner? If so, he will rise.

No one rose.

FIELD, J. Gentlemen of the jury, this trial is likely to last some three or four days, and I will send you to your room, as there may be some questions of law to be discussed, and you will remain in your room until the court sends for you.

The jury then retired.

Mr. STEVENS then addressed the court as follows :—

I understand there are some questions of law which counsel desired to have argued in the absence of the jury. Now, in this case, the prisoner has been indicted for the murder of her brother-in-law, Prince Arthur Freeman; and the government will offer to introduce evidence for the purpose of not only showing that she killed her brother-in-law, Prince Arthur Freeman, by administering to him arsenic, but also evidence tending to show that on the twenty-sixth day of February, 1885, she poisoned her brother-in-law's wife, her own sister, Annie Freeman, by administering arsenic, and that on July 23d, 1886, she poisoned her sister's son, Thomas Arthur Freeman, by administering to him arsenic; and they ask to introduce this evidence for the reason, as they claim, that every part of it was a part of one scheme which was conceived by her at least as long ago as February, 1885, her purpose being to obtain an insurance of two thousand dollars, which had been made out by Prince Arthur Freeman on his life, payable in case of his death to his own wife, Annie Freeman, for the purpose of taking care of herself and her child.

The evidence that the government will introduce briefly will be this: Mrs. Freeman was taken sick about the middle of February, 1885, with pneumonia, and after a sickness of a week or ten days she was apparently recovering; the nurse, who had been employed to take

care of her, was discharged, probably by Mrs. Robinson, and Mrs. Robinson came to take care of her sister, and did take care of her during the rest of her life. During that time Mrs. Freeman commenced to grow worse, exhibiting symptoms that had not been present before, and, after about a week, died, as the government will attempt to show, from the effect, also, of arsenical poisoning.

The government will also introduce evidence for the purpose of showing that Mrs. Robinson immediately upon coming to take care of her sister, and continuously during her sickness, predicted that her sister would not get well, that she would never recover from her illness, exhibiting a foreknowledge possessed by no one else; that even on the day of the funeral, and before it, while her sister was alive, she was influencing everybody about there to induce Prince Arthur Freeman and the child to come and live with her after her sister was dead, assuming her sister was going to die; and on the day of the funeral she continued her sollicitations, saying she desired to have her brother-in-law come and live with her and bring the child; that she was afraid he was going to live with his own family and the insurance would be made over to Mrs. Melvin, who was a sister of Mr. Freeman, saying that the only reason Mrs. Melvin wanted him there was in order to get the insurance, and saying that her own sister desired that the insurance should be made over to her and that the family should come and live with her. And these statements were made either the day before or on the day of the funeral. The claim of the government is that Mrs. Robinson desired to obtain this two thousand dollars insurance. This insurance had been made out, as I stated, payable in the case of the death of Prince Arthur Freeman to his wife Annie, and the first step that was necessary for the purpose of enabling Mrs. Robinson to get the insurance was to get Mrs. Freeman out of the way. Immediately before her death she speaks about her desire to have the family come to reside with her and have the insurance assigned to her, and on the thirteenth day of May ensuing the insurance was assigned to her, and the family went over to live with her. Mrs. Robinson, during this time, was pressed by creditors, — she had mortgaged her property to at least five different people under different names; she had been threatened with arrest on account of having obtained money by false pretences; she was sorely pressed by her creditors, and the money was received by her finally from this insurance.

FIELD, J. I suppose in insuring in the Order that the members of the Order have a right to designate to whom they will leave the insurance in case of death? If the person does not die he has a right to change the destination?

Mr. STEVENS. Yes, sir.

FIELD, J. The destination could have been changed if the wife had not died.

Mr. STEVENS. Now, the government will introduce a very great amount of evidence to show that she gave poison to Prince Arthur Freeman. She obtained, as the government say, that insurance, having had it assigned to her ostensibly for the purpose of taking care of the little nephew, Thomas Arthur Freeman.

FIELD, J. When did the baby die?

Mr. STEVENS. In April, 1885.

FIELD, J. How old was Thomas Arthur?

Mr. STEVENS. Seven years old at the time he died. He was six years old at this time.

FIELD, J. When did they both live with the defendant?

Mr. STEVENS. Oh, Mr. Freeman and the child lived there until they died.

FIELD, J. When did Thomas Arthur go to live there?

Mr. STEVENS. Immediately after the funeral.

FIELD, J. Was this defendant keeping house, according to your evidence, or boarding?

Mr. STEVENS. She was keeping house.

FIELD, J. What promises do you expect to show on the part of the defendant to take care of the child?

Mr. STEVENS. I expect to show by repeated witnesses that she received that money for the purpose of taking care of Thomas Arthur. She received the money on the 22d of September, 1885, Prince Arthur Freeman having died on the 27th of June.

FIELD, J. The designation was changed and the insurance made payable to her?

Mr. STEVENS. Payable to her in case of the death of Prince Arthur Freeman.

FIELD, J. What conversations do you expect to show by the defendant before the death of her sister?

Mr. STEVENS. I don't know as we expect to show conversation about the insurance before the death of her sister, but conversations where she asked various people to use their influence to have Prince Arthur Freeman come and live with her.

FIELD, J. Were the conversations about the insurance or getting Prince Arthur Freeman to come and live with her, or conversations in regard to some other matter?

Mr. STEVENS. I judge she was having conversations with repeated witnesses; we expect to show that.

FIELD, J. After the death of Annie Freeman?

Mr. STEVENS. No; I expect to show that before her death she was

using her influence with different people to urge Prince Arthur and her sister's child, before her death, to come and live with her.

FIELD, J. You will show she said something about inducing her sister's husband and child to live with her before the brother-in-law died, — no distinct reference to the insurance?

Mr. STEVENS. I do not recall, at this moment, any distinct reference to the insurance.

FIELD, J. I understood you to say that you had evidence to show that she spoke repeatedly to people to have them solicit her sister's husband and sister's child to go and live with her after her sister's death?

Mr. STEVENS. Yes, sir.

FIELD, J. I understood you to say that before the sister's death she wished, though not in terms, to have the insurance made payable to her?

Mr. STEVENS. No, sir; but after her sister died she expressed a fear that the husband and child would go and live with his relatives and the insurance be made over to them, saying it was her sister's desire that they should come and live with her, and that the insurance should be made over to her.

FIELD, J. You say you have evidence that she said she received that two thousand dollars under a promise or obligation to take care of the child?

Mr. STEVENS. Yes, repeatedly.

FIELD, J. And this boy was taken ill?

Mr. STEVENS. I shall show that the boy was taken ill on the nineteenth day of July, a year afterwards.

FIELD, J. A year after the father died?

Mr. STEVENS. Yes.

FIELD, J. And he lived with the defendant during that time?

Mr. STEVENS. Yes, sir; I shall show that she did not use that money for taking care of the boy, but to pay her debts, and that after she got the money she said the boy would be better dead than alive, and should better follow in the footsteps of his father, and she predicted that he would die after he was taken sick.

FIELD, J. And your evidence that he died of poison, and that his mother and father so died, arises from symptoms of their illness and post mortem examinations?

Mr. STEVENS. In every case the post mortem examination showed that every person died of arsenic. In the case of Annie Freeman there was evidence of arsenic used in embalming, but arsenic was found in all the bodies. Now, the reason that the government give for introducing this testimony, as I said, is because we say this evidence has a tendency to show that this woman entered into a scheme for the

purpose of obtaining this insurance of two thousand dollars. The first step necessary to carry out that scheme was to kill her sister, Annie Freeman. The next step was to have the insurance made payable to her.

FIELD, J. You show that she knew of this insurance before the death of her sister?

Mr. STEVENS. Oh, yes, certainly before the death of her sister. I think there is not the slightest question about it. I do not recall now the testimony of any witness. I have no doubt we can show that if necessary.

Then we shall introduce testimony for the purpose of showing that she killed her brother-in-law; that she received the insurance for the purpose of taking care of her little nephew, and that she did not take care of him, but killed him so that she should not have the burden, and did not use the money, but killed him so that she should not be obliged to use the insurance for the purpose for which she received it.

KNOWLTON, J. In this designation of money to her was it assigned other than by the request of Prince Arthur Freeman?

Mr. STEVENS. The assignment was made to her absolutely, on the thirty-first day of May, by Prince Arthur Freeman.

KNOWLTON, J. The obligation for her to take care of the child was outside of any written agreement?

Mr. STEVENS. Yes, sir, but she said she would do that to several persons. We can prove that beyond any possibility of doubt, I think. Now, we show your Honors that this was a scheme and that every piece of evidence which we offer to introduce in this case has some bearing on the question of whether or not it was a scheme, and if it was a scheme I suppose there is no question we can put in any evidence of anything necessary to carry out the scheme. Of course it was impossible for her to obtain that two thousand dollars unless her sister in the first place died; and if we are allowed to put in evidence for the purpose of showing that at the inception, we put in evidence to show motive, because it might be said that although she received the two thousand dollars assigned to her, that that was not the motive which induced her to kill Prince Arthur Freeman. But if we are able to show that, in order to make it possible to have the two thousand dollars assigned to her in the first place, it certainly shows a motive that influenced her to take her sister out of the way and kill Prince Arthur Freeman so that she might obtain the insurance of two thousand dollars.

Next we come to the son of Annie Freeman, the nephew of Mrs. Robinson, for whom she received the money to expend in taking care of him. If we are allowed to put in evidence for the purpose we shall show that she didn't take care of him, but poisoned him so as not to be obliged to take care of him, and that seems to be evidence to show the motive in getting the two thousand dollars, — not to take care

of the little boy, but to pay her own debts and to use it for her own benefit. Anything I suppose that has a tendency to reach forward and explain a crime, or anything which throws back a flood of light upon it, is admissible. I take it that there is no question about the principle that if the government is able to put in evidence which has a tendency to show that a scheme had been formed, — I mean if the court are of the opinion that substantial evidence is offered by the government for the purpose of showing a scheme, and it has a natural tendency to show that a scheme had been formed, — then every piece of evidence which goes to any part of that scheme is admissible. In a case in the State of New York which is very much like this, there are points to which I will call your Honors' attention. I suppose it was cited at the last trial, but I may be mistaken; it is *People v. Wood*, 3 Parker's Criminal Cases, 681 : —

The prisoner had been convicted of murder at the Livingston Oyer and Terminer and sentenced to be executed, and an application was made in his behalf for the allowance of a writ of error and a stay of the execution of the judgment.

It was assumed and claimed by the prosecution that these several felonious acts were but parts of a single transaction, influenced by a single motive, and designed to accomplish a single object; that they were all connected by unity of plot and design, and, if proved, would tend to show the motive which actuated the prisoner in taking the life of Mrs. Wood. Accordingly, evidence was allowed tending to show the commission of all these alleged felonious acts by the prisoner, for the purpose of establishing the assumed motive. The case being one of circumstantial evidence wholly, proof of the existence of a criminal motive in the mind of the prisoner to commit the act was essential to making out a case against him which would justify a verdict of guilty. That the evidence tended directly to uphold the theory and to establish the imputed motive cannot, I think, be denied or doubted, and the only question is, whether evidence of that character is admissible for the purpose for which it is allowed to be given in this case. There can be no question that the acts, the declarations, and the conduct generally, of a party charged with the commission of an offence, both before and after its alleged commission, are competent to be proved upon the trial to establish any fact essential to be proved if they tend legitimately to establish such fact, and they are as competent to establish the existence of motive as any other fact. Motive is a minor or auxiliary fact, from which, when established in connection with other necessary facts, the main or primary fact of guilt may be inferred, and it may be established by circumstantial evidence the same as any other fact. The proper inquiry when the circumstance is offered is, Does it fairly tend to raise an inference in favor of the existence of the fact proposed to be proved? If it does, it is admissible, whether such fact or circumstance be innocent or criminal in its character. It does not lie with the prisoner to object that the fact proposed as a circumstance is so heinous in its nature and so prejudicial in its

character that it shall not be used as evidence against him, if it bears on the fact in issue.

The atrocity of the act cannot be used as a shield under such circumstance, or as a bar to its legitimate use by the prosecution. If it could, many criminals might escape just and merited punishment solely by means of their hardened and depraved natures. The rule appears to me to be well settled, both by elementary writers and by adjudged cases, that separate and distinct felonies may be proved upon a trial for the purpose of establishing the existence of a motive to commit the crime in question, even though an indictment is then pending against a prisoner for such other felonies. I might cite many elementary books and numerous cases where the rule is thus laid down, but it is unnecessary. Indeed, there is no authority to the contrary. It is quite true that the prosecution cannot prove the commission of another and distinct felony by the prisoner for the purpose of establishing the fact directly that he committed the one for which he is then on trial, or for the purpose of raising any direct inference in the affirmative of the principal issue. The civil law allows such evidence against a criminal on trial for the purpose of rendering it more probable that he is or may be guilty of the offence charged, but the common law, with more humanity and better logic, forbids such evidence in support of the principal issue, and limits its admission to minor issues, such as motive and scienter, and even then confines it to cases where there is some apparent connection or relation between the imputed motive or guilty knowledge and the felony proposed to be proved. There is no pretence that the jury were not fully and carefully instructed as to the proper object and office of the evidence complained of, nor is there the slightest reason to apprehend that it was either misunderstood or misapplied by them. I am clearly of the opinion, therefore, that no error was committed in admitting the evidence for the purpose for which it was offered, and no injustice has been done to the prisoner in its application by the jury.

I believe I have read all that is necessary to read of the opinion. Now, on that principle, I have numerous citations from Massachusetts cases where it has been held over and over again, and no authority is to the contrary, that a scheme being established, evidence is admissible of every part of it: —

Commonwealth v. Blood, 141 Mass. 571.

Commonwealth v. Scott, 123 Mass. 234.

Commonwealth v. Choate, 105 Mass. 451-455.

People v. Wood, 3 Parker Crim. Cases, 681.

Jordan v. Osgood, 109 Mass. 457.

Lynde v. McGregor, 13 Allen, 180.

Grouson v. Com. 99 Penn. State, 383.

Grouson v. Com. 106 Penn. State, 477.

In the case of *People v. Wood* the facts are almost precisely as they are here. Now, if that is good law in this Commonwealth, there cannot be any reason why this evidence should not be admitted

in this State; and in *Commonwealth v. Choate* it was distinctly approved by the court in giving the opinion. The court say, — your Honor remembers that was the fire case in Newburyport, — the court, Chief Justice Chapman, giving the opinion, say : —

In that case the principle is affirmed which is stated in *Commonwealth v. Merriam*, 14 Pick. 518, that evidence which tends to prove collateral facts is admissible, if it has a natural tendency to establish the fact in controversy, or if it has a natural tendency to corroborate other direct evidence in the case. The other cases there cited also illustrate the same principle. It was on this principle that evidence was admitted in *Commonwealth v. Ferrigan*, 44 Penn. State, 386, in a trial for murder, that an adulterous intercourse between the wife of the deceased and the prisoner had existed and continued to near the time of the homicide. The one crime furnished a motive for the other. In *The People v. Wood*, 3 Parker Crim. Cases, 681, which was a trial for murder, proof of other crimes than that alleged, but connected with it by unity of plot and design, and influenced by a single motive, was held admissible.

I have cited some other cases. I do not know that I cited the case of *Grouson v. Commonwealth*, 99 Penn. That was a case where the prisoner poisoned his mother-in-law, who had some property which went to the prisoner's wife on her death, and evidence was expressly admitted on the ground that there was a scheme for the purpose of killing these two people and getting the money into his possession; and the killing of the mother was the first step in the scheme, and then the mother being out of the way, the property came to the wife, and then the next step was the killing of the wife. It was admitted on that ground as well as on some others.

Then, in the case of *Farrer v. the State of Ohio*, 2 Ohio State Rep. 72. That was a case where various members of one family were poisoned by a servant at different times, and there was no objection made, the court saying that that evidence was properly admitted, — that is, to show she killed four or five members of one family.

FIELD, J. At different times?

MR. STEVENS. Yes, sir; but there was the same unity of design about it, and the prisoner appeared to have one scheme to clear off all the members of the family; but the court refused to allow evidence to be introduced of the poisoning of somebody at another time in another family. That is the case from which brother Goodrich read the extracts from the opinion of the judge. But the court in that case say : —

Of the deaths which occurred in the Forest family, evidence was received without objection. And those deaths were so connected that I must regard the evidence so far as proper and material. But I am utterly unable to perceive any reason for the proof allowed of a poisoning which took place months before that, for which the indictment was framed.

I do not suppose if your Honors understand fully the facts of this case that I can add anything to the force of what I have read in the case of *People v. Wood*. That, as I conceive it, is precisely our case, and I could not argue our case so well in any other way as by repeating and appropriating that language.

It may be that the prosecuting officers for the government in this case are entirely mistaken about the law; but they started out in the trial of this case without the slightest doubt that this woman is guilty of this crime; not only of having poisoned her brother-in-law, but guilty of having poisoned her sister and sister's son in addition to three or four other people. And they are bound to offer this evidence because they believe it is part of this scheme. It may be, as I say, that the counsel for the Commonwealth may be possibly wrong about this. If it should happen that the court have any doubt about whether this is admissible, — it does not seem to me they can; but if they do, and we are wrong and your Honors exclude it, an irreparable injury is done to the Commonwealth. If your Honors have any reasonable doubt whether it is admissible or not, and it is admitted, no injury can be done to the defendant, because that can be corrected hereafter. But if it is excluded when your Honors have any reasonable doubt, although you may be of opinion that it should be excluded, it may be that the exclusion of that evidence will prove a fatal blow to the administration of justice.

FIELD, J. Do you offer it for the purpose of rendering it more probable that she committed the murder charged, or for the purpose of showing the intent of the murder with which she is charged, six months before committing; for the purpose of showing the same motive operating?

Mr. STEVENS. I put it as the strongest piece of evidence which has a tendency in this case in showing what was the motive. Now, it would have been a proper motive. Prince Arthur Freeman, we will conceive, died from the effect of poison.

FIELD, J. Does the force of the evidence stop with proving that she formed the intent of killing her brother-in-law before her sister died?

Mr. STEVENS. Certainly.

FIELD, J. Is that the whole force you attribute to the testimony, that she formed the intent of killing her brother-in-law before her sister died?

Mr. STEVENS. I think so, as it lies in my mind now.

FIELD, J. For the purpose of getting the two thousand dollars?

Mr. STEVENS. Yes, sir; as it lies in my mind, that is solely the purpose for which we offer the evidence.

FIELD, J. You offer it to show that she formed the intent to kill her brother-in-law before her sister died, and that the motive, the

thing that induced her to form that intent, was the fact of this two thousand dollars insurance, and the desire on her part to get it in her possession?

MR. STEVENS. Yes, sir.

FIELD, J. Now, in pursuance of that motive and intent, you claim that she killed her sister first, got the insurance changed and then killed her brother-in-law?

MR. STEVENS. Yes, sir; I think in itself it is the strongest evidence that that was the motive; the fact, if we show that she killed her sister. Do I make myself clear to your Honors? Not only that it has a tendency to show that she formed the intent before her sister died, but it is evidence of a very strong character to show that the two thousand dollars was the motive. That is evidence which directly bears on what the motive was.

FIELD, J. As you say, it is evidence that to get possession of the two thousand dollars was the motive. You claim that began to operate on her mind before the death of her sister?

MR. STEVENS. Yes, sir; that she formed the intent to get the two thousand dollars.

FIELD, J. Formed this intent before the death of her sister, and that in pursuance of that she killed her sister and got the two thousand dollars?

MR. STEVENS. Yes, sir.

FIELD, J. But the fact that she killed her sister, is that offered for any purpose except to show that she had the intent of killing her brother-in-law at that time? It is offered to show if she killed her sister, she killed her brother-in-law?

MR. STEVENS. Not in the slightest degree. I do not desire to have the jury consider that at all. I am not conscious that that in the slightest degree influenced the government in asking to have that evidence introduced.

FIELD, J. You have no evidence that she administered poison to her sister, except evidence that the sister died of poison; that she took care of her and had access to her and opportunity to do it? Possibly evidence that she took care of her sister more than any one else, and inferences that may be drawn from that?

MR. STEVENS. She took care of her sister, and furthermore, when she came there at the outset, and during her sister's sickness, while the physician and everybody else supposed that she was going to get well, the defendant at once predicted that she was going to die. We presume that was evidence of a guilty knowledge on her part. There was no reason why she should know more than the physician unless she had done something to the sister and knew what the effects of what she had done were going to be.

FIELD, J. There are two possible schemes, beside many others that we will not consider. One is a scheme to get this insurance made payable to herself if the sister died, and then when that was done to kill the brother-in-law, and another scheme was to kill her sister and get the insurance payable to herself, and then kill the brother-in-law.

MR. STEVENS. The government claim that.

FIELD, J. There are two schemes possible?

MR. STEVENS. The evidence of the government is that in February, 1885, she formed the scheme of killing her sister, her sister's husband and her sister's child.

FIELD, J. There was nobody who co-operated with her in the scheme? You mean intention in her own mind?

MR. STEVENS. Intention in her own mind. I believe the evidence shows that. Of course it is for the jury to say.

FIELD, J. I only wished to develop your idea.

MR. STEVENS. Now, shall I go on to the point?

FIELD, J. We will hear you through, and the other side at the close of your remarks.

MR. STEVENS. In reference to the boy, we will show he died the next year, and she obtained this money; not for the purpose of taking care of the boy, because that would not have been any sufficient motive, but she took care of the boy to obtain this money and use it for her own ends, to pay off her own debts and encumbrances, as the government will show; and if we show that she killed the boy afterwards, it goes directly back and throws light on the motive which originally influenced her; because if she had obtained that money for the purpose only of taking care of the boy, and had taken care of him and he had lived, he would have had the benefit of that; it would have been the best answer in the world to the motive set up by the government. But we say that the motive was pretended, was not the real motive, but a selfish one, and the fact that she put the boy out of the way, so that she would not be obliged to take care of him, relates back and explains the purpose of the intent which influenced her in getting that insurance; and relating back in that way it throws light on the principal crime. And in that case, the same as in the other, we shall introduce evidence, if the court allows us to put it in, which I think will satisfy the jury that she did kill her sister's son. She said after she had used up the insurance money that the boy would be better off dead; she said that there was not enough left to take care of him. She predicted after she used most of the money that the boy was going to die. She said there was not insurance money enough left to take care of him. Before he died she said he was going to die, that she had a message from her sister and daughter.

FIELD, J. Suppose she kept that boy a year and then carried him to the poorhouse, would that be competent in this case?

Mr. STEVENS. I have no doubt of it. Any evidence to show that she had not used that money to take care of the boy would be competent. Suppose she turned that boy out of doors after getting that money?

FIELD, J. You have got an adequate motive in the mere fact that she receives two thousand dollars absolutely by the death of her brother-in-law?

Mr. STEVENS. It may not be so strong a motive. I think the government might be allowed to show the strongest possible motive. But if anything has a tendency to show that that was the motive which operated on her mind, it ought to be admitted. If she received that money for the purpose of taking care of the boy, and did not take care of him but killed him, it is pretty strong evidence to show that her motive in getting that money was not to take care of the boy, but to use it for her own purposes. Now, I only fear that I have failed to make myself clearly understood by the court.

FIELD, J. Have there been any cases where subsequent conduct has been admitted, except those English cases? I think those were instances of four or five months afterwards.

Mr. STEVENS. In the case of Wood I will read what is said:—

The indictment was for the murder of Mrs. Rhoda Wood, the wife or widow of David J. Wood, in whose family the prisoner resided. The theory of the prosecution was, that the prisoner's motive in committing the alleged murder was to obtain the property and estate of D. J. Wood, or some considerable portion of it. The prisoner was the brother of D. J. Wood, and, as the prosecution assumed, he supposed and believed that D. J. Wood was possessed of a large estate, which he coveted, and that a portion of this estate would come to him as one of the heirs if D. J. Wood and his wife and children could be put out of the way; that to accomplish this object, and to enable him to appropriate a still larger share of the estate, by meditated forgeries and false claims against his brother, he commenced by murdering D. J. Wood by administering to him arsenical poison, and shortly after, as the next step, he administered at the same time the same poison, with the like intent and for the same object, to Mrs. Wood and the two children.

Well, now he did not succeed in killing the children but succeeded in killing Mrs. Wood. And after that he forged notes for the purpose of making false claims against the estate, so that if he did not succeed in killing the children he might get the money in some other way.

FIELD, J. For whose death was he tried?

Mr. STEVENS. For the death of Mrs. Wood.

FIELD, J. She was the last person who died from poison?

Mr. STEVENS. She was the last person who died from poison, but the court allowed the government to put in evidence of the prior poisoning and also of the subsequent attempts to poison and subsequent attempts at forgeries.

FIELD, J. How long after?

Mr. STEVENS. The time is not given; I do not know. I imagined that might suggest itself to your Honor; but how the principle can be affected in the slightest degree, whether it was one day or one year, provided logically what was done by her afterwards relates back, — I do not care whether it was yesterday or twelve months ago, — I cannot see how in principle there can be any distinction drawn. Is not the sole question for the court to consider, whether the subsequent act has any natural tendency to explain the principal crime itself in any way? It may not have so much force to occur a year later, but the principle must be precisely the same.

FIELD, J. I remember one English case in which they did admit acts subsequent, but only a few months afterwards.

Mr. WATERMAN. One date was August and the subsequent times were the following March or April.

FIELD, J. And it was said that the counsel for the defendant had admitted what had taken place before. But the opinion is short, and there is really no reason at all in it, so far as I can see, except to say it is admissible.

Mr. STEVENS. I do not ask to introduce this evidence on that ground. In the case of *Commonwealth v. Choate* there was considerable length of time.

FIELD, J. A barn had been burned in that case, and the evidence was that it was set on fire from a box which it was charged the defendant had made. He made other similar boxes for other people. I cannot conceive of any doubt about the correctness of that case.

Mr. STEVENS. No doubt I can find some cases where the time was considerable. It did not seem to me that that was of any consequence, but it seemed that one fact had a natural tendency to explain another.

FIELD, J. It is a maxim of law, of more or less force, that presumptions do not run backward. If you have an intent to-day it is not ordinarily any evidence that you cherished the same intent a year ago or two years ago. But where it is a voluntary intent, which may arise at any time, there is no presumption in the law that the intent you have to-day you had a year ago.

Mr. STEVENS. Unless there is some expressed intention. We put in evidence to show the connection between a threat and the act afterwards done, and so a man may make a statement about some-

thing that occurred a year ago. If there is any connection between the statement made by him a year ago and what he does to-day, of course that would be admissible. Now, if he does anything a year from to-day, which has some natural tendency to explain what he does to-day, I do not see why it is not as admissible as any statement he may make of the past transaction. It is not a case wherein an intent is presumed to exist, but where a man makes a certain statement which has a tendency to explain something which he did a year before.

FIELD, J. In your criminal trials you are permitted to show hostile feelings against a person assaulted, but are you ever allowed to present feelings a year after the assault, — the isolated expression, — not referring in any way to the other matter, how would that be?

Mr. STEVENS. I should not introduce any evidence on that, but if it were a hostile expression about that particular transaction, so that the language used was connected with that, of course that would be allowed to be put in. It is not a case of isolated fact, but where we follow right along and show two facts are connected together, one explaining the other. I am not sure but the evidence in that case has even greater force than if the boy had died the next day. I do not know what the jury will say. It shows the determination, because we lead up to this and show that immediately after the insurance was obtained she used a large part of it for other purposes; and then, the next step we show, that she says the boy would be better off dead than alive; that he is likely to grow up and be a worthless fellow like his father, and then makes another statement that she has not enough insurance to take care of him. Some of this evidence relates to a time not a great while after she had obtained that insurance, so that she expressed, within a very short time after she got the insurance and used it, a hostile feeling against the boy, — such an intention as she would have been likely to have felt if she meant to subsequently kill him. And those declarations made by her have a tendency to explain what she afterwards did.

Recess until 2 o'clock.

AFTERNOON SESSION.

The court returned at 2 P. M.

Mr. GOODRICH. If your Honors please, it seems to be understood that there is to be no attempt to review any of the principles which were settled by your Honors at the previous trial. Now, it is proposed by the government to offer, upon the trial of the present indictment, evidence tending to show that the prisoner committed two other murders, upon the ground that the three murders, evidence of which is thus offered, were connected; that there was a scheme, a single intent, a plan, a purpose which was common to all three cases; that, therefore, the evidence is competent, not for the purpose of showing that the prisoner committed these offences, upon the main question, but simply to prove the existence of a motive which might assist the jury in determining the guilt of the prisoner. It is admitted that it is incompetent to show, even as a part of the common plan or purpose, that she poisoned the wife of Freeman, or the son of Freeman; but it is claimed that the evidence is competent as showing a motive,—it is offered for that single purpose.

If it is offered, it must be considered by the prosecution as of some weight or account,—that it has some tendency to increase the probability of the poisoning of Freeman by the prisoner, upon the point of a motive for so doing. Now, without those other cases, it would simply stand that she had a motive to poison Freeman, because upon his death she might reasonably expect to receive a considerable sum of money, and they say that, although not a strong inducement to the minds of most persons, yet might be considered by the jury as being sufficient. Now, on principle, the government ought to be glad to stop there. But the prosecution say they want to go further: and, although it might well be doubted whether the prisoner would be moved to commit a murder with the prospect of getting two thousand dollars, they claim the privilege of showing that three lives stood between her and the two thousand dollars; and they claim the privilege of going to the jury and undertaking to prove to the jury that the two thousand dollars would not be a sufficient motive, perhaps; they are not willing to rest it upon the case of Freeman alone, but are willing to show that she was induced to commit three murders by the prospect of the possession of this sum of money.

Now, for what purpose do the prosecution want to get that in? Is it not for the purpose commented upon in the case of *The State v. Farrer*, in the 2d Ohio State Rep., where Judge Thurman animadverted with such tremendous force against the proposition to introduce evidence

which, he said, must be entirely immaterial to the prosecution or would operate against it if it was confined to its legitimate effect upon the jury? It would seem, therefore, that there could be no other apparent purpose for the pressing of this evidence upon the jury than that it might operate upon their minds, as it would, — as the human mind must unavoidably allow it to operate, — and leave to us the chance of disabusing their minds afterwards, and removing from their minds those impressions which the weakness of their natures might render it difficult for them to free themselves from. Now, I say that, in the first place, the evidence is suggested without showing how it can be of any particular importance to the government : “ We claim that, as a principle of law, we have the right to call and introduce that evidence ; that, instead of there being any force in the suggestion that it ought not to be admitted in favor of the government, if it should turn out it was prejudicial to the defendant the defendant would still have a chance — it could be reviewed ; but it would be lost to the government forever if it was ruled out.” All doubts of fact and all doubts of law, I suppose, operate *in favorem vite*. Of course they do. And I never heard it suggested in any serious case, much less in a capital case, that any doubt about a matter should operate in favor of the government upon trial. So much for that.

Now, does the prosecution offer evidence which tends with certainty to show a plan and a purpose applicable to all three cases, a plan which involved of necessity, — for I go so far as to say that it must involve it of necessity, reasonable necessity, — which involved the death of all three parties? There is one definite answer to it. It is more reasonable that the death of the boy after the death of Freeman should have been an after-thought than that it should have been a part of the original purpose and plan ; that is obvious. And I do not understand that there is any proposed evidence suggested tending at all to show that the disposition of the boy by poison was in the mind of the prisoner at any time, certainly previous to the death of Freeman. So upon the face of it there is not only no necessary connection between the death of Freeman and the death of the boy, but there is no natural, no reasonable connection between them. As a matter of probability, the prisoner would have a great advantage. So much for that.

Now, go back further to the case of the wife, whose death antedated the death of Freeman, and it was said that there was a definite plan and purpose to compass the death of both Freeman and his wife before the death of Freeman’s wife. There is no evidence proposed which would make any such connection necessary. It does not appear as a result, it could not appear, the jury could not draw the inference from any evidence which has been suggested as being in the posses-

sion of the government, that the insurance money was in the mind of the prisoner before the death of the wife; certainly not before her sickness or before the point of time arrived when there was reasonable occasion for making some provision in regard to the matter. And then, again, it would be quite natural upon the question of what was a sufficient motive for the death of Freeman, that there was money coming to him. But going back to the lifetime of Mrs. Freeman, there was no connection then, apparently, between her situation and her expectations and the death of Freeman.

Before Mrs. Freeman died nothing stood between the death of Freeman and herself which would inure to her benefit by the death of Freeman. She had no interest in the money, she was not an heir to an estate, and by killing Freeman or by killing the wife she would not be benefited. She did not get any nearer to the money of Freeman by killing Freeman's wife. She had nothing to do with the money more than any other stranger, perhaps not so much as Freeman's own sister, not so much as his children, not so much as others. But it is claimed that there being an opportunity for her to bring an important influence to bear upon Freeman at a time subsequent to the death of the wife, by which she might be able to make some arrangement which would be beneficial to her, therefore it would be a natural motive, there would be a natural inducement for her to get Mrs. Freeman out of the way. Freeman was living, his wife was living. He had his life insured for his wife's benefit. It would be a very unreasonable thing to assume that she had any interest in the destruction of Mrs. Freeman; because removing her does not leave her any nearer to the insurance money, not a bit.

Now, then, I intend to be brief, and so I will only adopt the reasoning of the court in the case of *Commonwealth v. Shaffner*, 72 Penn. Rep. 60, which was referred to in the last trial. In that case the defendant was charged with poisoning his wife. The inducement was said to be that he desired to marry a paramour, who was a married woman, to obtain her inheritance, but the husband would be in the way. Therefore, the husband must be removed. And upon the trial it was claimed that evidence was competent to show that he did remove by poisoning the husband of the woman whom it was charged he desired to marry, and the desire to marry whom was the inducement for the murder of his wife. It was allowed by the trial court, but the Supreme Court said it could not stand; for they said that the connection must be not only a reasonable and a natural one, but it must be a necessary one, and there was no necessary connection between the death of the husband of the woman and the death of his own wife. So I say that, before your Honors can allow the jury to undertake the double duty of determining upon the guilt of

this prisoner with reference to the death of Freeman and of Freeman's wife also, and putting upon the prisoner the double duty of defending two cases or three cases when she has been called to answer but to one, — that before your Honors can allow evidence to be introduced, as I say, which imposes upon the jury and the prisoner those duties, it must appear that by the plain rules of law the evidence is competent and admissible; and that the connection between those three cases, which has been suggested by the prosecution, is a necessary connection, — one which must be found so by the court (it being a question for the court and not for the jury); and such a connection that the jury would find, or ought to find, that all the deaths were part of a single plan, a single purpose and intent, and all carried out in accordance with a plan.

Such, necessarily, is the reasonable inference, certain is it the necessary inference upon the statement of the prosecution of what they propose to prove; such is the necessary inference that before the death of Mrs. Freeman she must have intended the death of the boy a year and a half afterwards. We say it is not reasonable, that in fact it is unreasonable, because it does not stand to reason that the prisoner should murder the boy when it would be so much easier and safer to get him out of the way in some other way. It might have been that he could have been sent to an institution if she desired to be relieved of his care, or that some disposition might have been made of him to relieve her of the expense of taking care of him, if it was an expense, without killing him. There is, therefore, no necessary and no reasonable connection. It is quite reasonable to argue that her motive in killing Freeman was to obtain the two thousand dollars insurance money; it is not necessary for the government to show in connection with that, and it is not reasonable that it should be the case, that at that time she intended the death of his son; and it is not reasonable to suppose that if she intended to kill Freeman for the purpose of obtaining the two thousand dollars insurance money that she may have formed that purpose long before the event, in the lifetime of his wife.

The prosecution are setting up a theory, and they say: However reasonable or unreasonable that theory may be, we have chosen to set it up and we want to introduce evidence in support of that theory, in doing which we shall necessarily bring before the jury a great deal of evidence outside of the rules of law, which certainly would tend to greatly prejudice and bias the minds of the jury against the prisoner at the bar.

I do not know that I need say anything more. I say that the evidence offered would tend to show no necessary connection between the three cases; they do not appear from the statement to have been

parts of a single purpose, plan, design or scheme entered into, fixed in the mind of the prisoner before the death of either of the three. The evidence would fall so far short, that upon that point your Honors would not allow the jury to act, I think, upon the assumption that the theory was true and correct, from any evidence that has been suggested.

The New York case which my brother cited starts off by expressly recognizing what I have said. [Reading.]

It was assumed and claimed by the prosecution that these several felonious acts were but parts of a single transaction, influenced by a single motive and designed to accomplish a single object. That they were all connected by unity of thought and design, and, if proved, would tend to show the motive which actuated the prisoner in taking the life of Mrs. Wood. Accordingly evidence was allowed tending to show the commission of all these alleged felonious acts by the prisoner, for the purpose of establishing the assumed motive.

And as I understand this case these lives all stood between her and the money. In this case young Freeman's life did not stand between her and the money at all. If she was to get the two thousand dollars, she got it, and there was no need of any further design; there was no need of any further murderous intent. And naturally enough, we may at least say that it is not to be presumed that she would commit any more murders than were necessary to accomplish the object. And it is reasonable to think that after she had received the money which she had perpetrated the murder to obtain, that if there was any further murder after that for which she was responsible, naturally it would be the result of a new design and a new purpose, it would be an after-thought. The idea is a repelling one that it could have been entertained originally as a part of any single plan to bring about the death of three persons.

Mr. WATERMAN. Just a few points. This insurance originally was made by Prince Arthur Freeman payable to his wife, Annie Freeman, in case of his death. Annie Freeman died. At the funeral, or on the day of the funeral, Mrs. Robinson was, and before had been, anxious as to what should be done with the insurance money, in this way: she wanted to get Freeman, her brother-in-law, and the children, the report was, away from the Melvins and have them come and live with her, on the pretence that the money ought to go for the benefit of the children, and she got them to go there. Then she induced Freeman to assign his interest in the policy; to make it payable to her, on the pretence that she wanted it to take care of little Thomas Arthur Freeman, her sister's child, — it was purely for his benefit, — and the baby. The sister died in February,

1885. The baby died in the following April. On the 13th of May, she, while Freeman was sick, — Prince Arthur Freeman, for whose murder we are now trying her, — she induced him to complete an assignment of the insurance to her, saying that she wanted it so that she could use it for the purpose of bringing up Thomas Arthur Freeman, the boy. Soon she began to talk about Freeman, the brother-in-law. We connect her with this boy, what she said at the funeral with what she said afterwards and what she said the day before the boy died; that he was not fit to live and she wished somebody would put him out of the way, and so forth. We say it was her intention from the beginning to get this insurance for her own benefit. She had been mortgaging her property. She was apparently in straitened circumstances. She had mortgaged her property under certainly two, and I believe, under three different names; the same property, as being three different individuals, but she was the same one and only signed by different names. When she got this money, — after Freeman died in June, 1885, — instead of keeping it, as she pretended she wanted to, she took it and went out West, spent some of it there and paid her own obligations with the rest of it, and then began to talk soon after — I don't know how long after, but soon after — about little Thomas, that he might as well be out of the way, because he would probably be no better than his father and he had better be dead than to be alive. He continued to live with her around to July, 1886, when he died from the effects of arsenical poisoning.

Now, what we want to connect is the death of Prince Arthur, and the manner of his death, with this other transaction, because we say that, all the time when she pretended she wanted this money in her hands for the benefit of little Arthur, she wanted it for herself, and that Arthur was not to have it, and she did not intend he should have it, but intended to have it for herself and put him out of the way so that there could be no claim, either legally or equitably, that the money should be used for his benefit or taken from her. That is the claim on the part of the Commonwealth. If there is a connection, — no matter how little, no matter what the fact is, whether just before or after the death of Freeman, the brother-in-law; no matter if she intended, and if this act of putting this boy out of the way was a part of the intention, or in any way related to the murder or the death of Prince Arthur Freeman, — then why is it not competent, no matter whether it is a year, a month, or five years after? Suppose she had said when little Thomas Arthur died, or just about that time, that she would put him out of the way so that there never should be any claim on his part, and that he would not get any of the two thousand dollars, it would be competent testimony to introduce here. It is not necessary that we should prove that she said that, that she uttered it

with the voice ; if she did anything which tends to prove that, it is just as effectual as if she uttered it with her voice.

Now, after this money came into her hands, she began to predict that he was going to die, said she knew he was going to die ; that, perhaps, it would be as well for him to die, for if he grew up he would be as worthless as his father and had better die, had better be off out of the way. Taking that in connection with what she said on the day of the funeral, and previous to that time, about the Melvins, about getting Freeman to put the insurance into her hands, — connecting those, this is only another step to carry out the main intention and the main object of her mind, to wit : To take care of the money that she might have the full benefit of it herself.

It is no matter what she thought, how much mind, how much intellect was put into this transaction. It may have been the most foolish thing that ever was for her ; it may have been a matter which the mind of a reasonable person would not have entertained, or an intention conceived by her which somebody else might not have conceived, but that does not make any difference. The question is, did she have that intent ? Have we not the right to put that question to the jury for them to find, one step after another, from the time Annie died, before she died, when she died ? One step was the talk in going to the funeral, another was about the Melvins, another was about getting Freeman and the children to her house to live, another was getting Freeman to assign the insurance to her, and another was pretending, when she had it assigned, that she had a good motive in asking it to be done, to wit : That she wanted it so she could take care of little Arthur. Then she takes another step and kills Freeman, her brother-in-law. Then she takes the money and does not do with it what she pretended she wanted it for, but keeps it and uses it for herself, and then says that Arthur would be as miserable as his father and it would be better that he should be out of the way ; and then we say she killed him and that he had the same symptoms and died in the same way that the others did ; thus beginning with one step and taking another and another and another and another, connecting them all together. And, therefore, it is not for the purpose of proving her guilty of the murder of the boy, Thomas Arthur Freeman, that we ask to put this evidence in, but for the purpose of showing her intent in killing Prince Arthur Freeman, her brother-in-law. We say that her motive and her object was to have the insurance money assigned to her, that she might have the benefit of it, and that that was also the motive for killing him. But the court will not restrict us from putting in all evidence which we think we have that is at the root of the case, nor will the court say to the jury that such and such evidence is sufficient to find conclusively the motive or the intent of this

prisoner; or that such a thing was a sufficient motive, and that the government need not or cannot go any further. If the government can show, in addition, so as to satisfy the minds of the jury beyond a reasonable doubt, that the obtaining of the money was the intent, the government ought to have the right to put it in.

The court went out to discuss the questions raised, and returned.

FIELD, J. We have considered the question submitted to us and have come to an opinion on part of it, as follows:—

If evidence, direct or circumstantial, is offered and admitted tending to show that this defendant knew before her sister's death of the existence of the insurance, and that it could be transferred on the death of her sister to herself and made payable to herself on the death of her brother-in-law; and that she, before the sister's death, had formed in her own mind a plan or intention to obtain this insurance for her own benefit, and this plan or intention continued to exist and be operative up to the time of the death of her brother-in-law; then we are of the opinion that evidence may be offered that her sister died of poison and that this defendant administered it as a part of the method employed by her to carry this plan or intention into effect, in connection with evidence that she administered poison to her brother-in-law as another part of the same plan or intention. We think that evidence of this knowledge and plan or intention on the part of the defendant, if there be any, should first be offered that the court may judge whether it is sufficient to warrant the introduction of evidence that the sister died of poison administered by the defendant. The court is unwilling to indicate this afternoon its opinion upon the admissibility of evidence relating to the cause of the death of Thomas Arthur Freeman, or of the defendant's connection with it, and think that this should not now be open to the jury, but will rule upon it after the case is better understood, in time for the Commonwealth to introduce it if it is judged competent.

Of course, counsel for defendant will take exception to the admissibility of the evidence.

The jury was called in and the case was opened to the jury.

OPENING STATEMENT FOR THE GOVERNMENT.

BY DISTRICT-ATTORNEY WILLIAM B. STEVENS.

May it please the Court, Mr. Foreman, and Gentlemen of the Jury,—In opening a capital case a few weeks since I remarked to the jury that they had entered upon the trial of one of the most remarkable cases in the history of criminal law that had ever been tried in Massachusetts, and I think I may say to you that you have entered upon the trial of a case in some respects even more remarkable than that. The prisoner at the bar, Sarah Jane Robinson, has been indicted for murdering her brother-in-law, Prince Arthur Freeman, by administering to him poison. And as a part of that crime, and connected with it, and in the execution of the scheme in carrying it out, the government will introduce evidence which will have a tendency to show not only that she poisoned her brother-in-law but that she also poisoned her own sister, for the purpose of obtaining an insurance of two thousand dollars.

Now, murder has been defined to be the killing of a person in the peace of the Commonwealth with malice aforethought, either express or implied. By the statute it is divided into murder in the first degree and murder in the second degree. Murder in the first degree is the deliberately premeditated killing of a person with malice aforethought, or in the commission of, or attempt to commit, a crime punishable with death or imprisonment for life, or committed with extreme atrocity or cruelty. All murder not of the first degree is murder in the second degree, and the degree of murder is to be found by the jury.

I need not consume any time in explaining to you in this case the distinction between murder in the first degree and murder in the second degree, because from the nature of the offence and the character of the means used, the intentional use of poison necessarily presumes a very great degree of deliberation; and anybody who is guilty of having poisoned another intentionally must have done it with such deliberation that it must be, if anything at all, murder in

the first degree. So you will say upon the evidence, I have no doubt, in this case, either that the prisoner is innocent, or that she is guilty of murder in the first degree.

You may ask yourselves the question, how is it possible for a woman like this to commit such a crime? The answer is, from the depravity that is sometimes found to exist in the human heart, — in the heart of a woman as well as in that of a man. As the female sex ordinarily rise above men in morality and kindness and gentleness, so they sometimes sink to lower depths of cruelty and malignity. The lives of Catherine de Medici and Lucretia Borgia teach us of what wickedness and atrocity woman is sometimes capable. You must not start out, gentlemen, with the presumption that that woman could not have committed this crime. In every criminal case it devolves upon the government to satisfy the jury beyond a reasonable doubt, upon the evidence, that the defendant is guilty of the charge that has been brought against him. This woman is just as likely to have committed the crime as anybody against whom the charge might have been made. I ask you to put yourselves into such a frame of mind that the evidence shall have upon you its natural and its logical effect. It is not always safe to weigh the motive by the influence it might have upon you. What has a controlling influence upon one person turns out to be no temptation to another. It may be that, overcome and controlled by the desire for gain, this woman may have been an habitual poisoner, the same as another, influenced and controlled by the same motive, may be an habitual thief. It is true that the former type in crime is more rare than the latter, but the history of criminal law and the experience of all ages teaches that both types exist. And if we appeal to our own hearts and our own experiences and feelings we are almost obliged sometimes to say that such a person must be morally insane.

In the investigation of facts and the trial of causes there are two kinds of evidence, — direct evidence and circumstantial evidence. Direct evidence is where a witness appears upon the stand and testifies to a fact seen, the thing done which is the question at issue. Circumstantial evidence is where witnesses appear and testify, not having seen the principal thing done, but they testify to isolated facts and circumstances. And if those facts and circumstances are of such a character as to be consistent with no theory except the theory of the defendant's guilt, then his guilt is equally proved with a sensible, intelligent and reasoning jury by circumstantial evidence as by direct evidence. If you appeal to your own experience, gentlemen, you know that the conclusions to which you come in life, a very large portion of them, are arrived at by circumstantial evidence, and they are just as conclusive to you, just as satisfactory to you, and

you have just as little doubt about them. For instance, when Robinson Crusoe went out in the morning and saw the tracks of a man's foot upon the sand he was just as well satisfied that a man had been there as though he had seen the man. If you retire at night and hear the rain patter on the roof, and you get up in the morning and see the sleet on the trees, you are just as well satisfied that it rained the night before as if you had seen it with your own eyes raining from sunset to sunrise.

In this case, gentlemen, the government will introduce no direct evidence that this woman poisoned either of these people, — either her own sister or her brother-in-law. They will introduce no witnesses who will testify that they saw or knew of any arsenic ever having been in her possession; but they will testify generally to a great variety of facts and to a great number of circumstances. And the government will ask you, as reasonable and intelligent men, applying your best intellect to that evidence and reasoning upon it as well as you can, — they will ask you, as reasonable beings, whether there is more than one conclusion to which you can come. If the government satisfies you of these facts, if these circumstances are established, and if these circumstances taken together are consistent with no theory except the defendant's guilt, your conclusion will be just as satisfactory as if half a dozen witnesses came upon the stand and testified they saw this woman give the poison or use poison on any patient; I say, provided the government introduces such a condition of circumstances that you come irresistibly to the conclusion, beyond all reasonable doubt, that these facts could not have existed unless this woman is guilty. I say in this case we expect to introduce such a number of facts, that when you come to reflect upon them we expect you will say that such facts could not have existed if this woman was innocent, in the nature of things, within any reasonable probability. When we try a case we are trying a case within reasonable probability. The government is never obliged to satisfy you in any case that the defendant is guilty beyond a possible doubt, because as the human mind is constituted it is defective always, and liable to doubt to a certain extent. If that rule was imposed upon the government it would hardly ever be possible to prove the guilt of a defendant. And so the law is, that the government shall satisfy the jury, not beyond all possible doubt, but beyond any reasonable doubt. In this case we propose to satisfy you beyond any reasonable doubt that certain circumstances we shall produce in evidence could not have existed if this woman had been innocent.

Sarah Jane Robinson, whose maiden name was Tennent, was born in the north of Ireland fifty years ago. When she was a girl in her teens she came to this country and went to reside in Cambridge with

her brother, and was married in the vicinity of twenty-nine or thirty years ago to one Moses Robinson. From that time she lived in Cambridge, in Boston and Charlestown and Chelsea, and in Somerville until she was arrested in August, 1886. She had a sister Annie who married one Prince Arthur Freeman, for whose murder she is now to be tried. This sister and her husband lived in South Boston. They were people in humble circumstances. He was a laboring man. They had two children, a little infant, Lizzie, and a little boy, Thomas Arthur Freeman, who at that time, in 1885, was six years old. This Prince Arthur Freeman being poor, having no provision which he could make for his family other than insurance, with the purpose of securing something for his wife and children if he died, did not go to an ordinary insurance company, but he joined a mutual benefit society which was known as the United Order of Pilgrim Fathers, which was an institution partly for the purpose of insuring the lives of its members, and partly for social pleasures. He insured his life in that company for the amount of two thousand dollars, payable in the case of his death to his wife, and payable, of course, for the purpose of taking care of his wife and children.

This sister Annie, in February, 1885, was taken sick with pneumonia. Dr. Davidson, who resided in South Boston, was called to her. For about a week she remained under the care of one widow Randall, a nurse who had been sent over to take care of her by Mrs. Freeman, her mother-in-law, and was getting better; the disease was under subjection, the physician saw no reason why she should not recover with proper nourishment. Everything was going along well when Mrs. Robinson came over to take care of her. I think the evidence will show that Mrs. Robinson discharged this nurse. At any rate, the nurse went away and Mrs. Robinson took charge of her sister. From that time her sister began to grow worse. New symptoms set in such as she had not had before, — symptoms which are produced by arsenical poisoning, nausea at the stomach, diarrhœa, a burning sensation in the stomach, and various symptoms which the doctors will describe to you as the symptoms of arsenical poisoning. Dr. Davidson did not understand what the matter really was. She did not commence to grow worse for a day or two; she remained just about as she was for one, two or three days, and then she commenced to grow worse, and so continued until she died. And the doctor will tell you that he has no doubt she died from the effect of arsenical poisoning. Two years, or thereabouts, after her death her body was taken up, an autopsy was made and a chemical analysis by the experts, and arsenic was found in the organs. Now, it is fair for me to say to you that if the government relied entirely on the fact of arsenic having been found in her organs, they would not ask you to

say from that evidence alone that this woman died from the effect of arsenical poisoning, because it appears that after she died there was an amount, a small amount, of some kind of embalming fluid introduced by the undertaker that may have contained arsenic, and it will appear that the undertaker was at that time using two or three kinds of embalming fluid, some of which contained arsenic and some of which did not; so that that is a possible explanation of the presence of arsenic. The government does not rely upon that testimony alone, and would not ask you to find that she died from arsenical poisoning if that were all the evidence. But we shall show you that she had these symptoms; and the testimony of the physician who attended her, that he has no doubt that she died from arsenical poisoning, and the further fact that they found arsenic in her body, which, at any rate, is consistent with the theory that she might have died from arsenic having been administered to her. Another curious fact about Mrs. Robinson is this: Annie was getting better when she came to take care of her, there was no reason why she should not recover. But Mrs. Robinson immediately commenced to predict that her sister never would get any better; she said she was going to die, she told everybody so. There was no reason, so far as anybody could tell, why Mrs. Robinson should have known it, but she told everybody that her sister would not get well, and her sister did not get well. It would seem that she had some amount of information, unless it was guesswork, that nobody else knew or had. Now, the government say that is the best evidence; that is one circumstance which you are to consider in connection with the other facts of the case which go to show that she had a guilty knowledge, that is, that she knew arsenic had been administered to her sister, and knowing that, she knew that her sister was going to die; and that is the reason she had knowledge that nobody else had.

But that was not all. We say that she had formed a scheme to obtain the two thousand dollars, and that the first step in the accomplishment of that was to kill her sister. But that was not enough. It was necessary, in order to enable her to do that, that she should have the family—that is, Prince Arthur Freeman and the children—come over and live with her, and that he should have the insurance made over to her. Now, the next step: it was necessary that the insurance should be made over to her, and that Prince Arthur and the children should be brought into her family and put under her influence, because she was one of the most extraordinary women, I venture to say, that ever lived, and knew that when she brought him under her influence it would be an easy matter to have that insurance assigned to her. So we find her scheming. She says to everybody,—not to everybody, but to a number of witnesses who will testify,

even before her sister was dead, presuming that her sister was going to die, having this knowledge that nobody else had, — “I want you to use your influence to have Prince Arthur come over and live with me, and bring the children over with him.” The government say she had some purpose in doing this ; that this was part of the scheme. We find that, on the day of the funeral, she was talking about the insurance. I forgot to say that, before her sister died, she had the two little children taken over to her house, and they were there in Cambridge on the day of the funeral. She was fearful that Mrs. Melvin — because Mrs. Melvin was Mr. Freeman’s sister, and lived in Charlestown with Mrs. Freeman, Mr. Freeman’s mother — might get control of Prince Arthur Freeman, and she said that all Mrs. Melvin cared about them was to get the insurance ; and she wanted to get them over to live with her, and she did not want them to go to Mrs. Melvin’s. This was on the very day of the funeral. She said her sister wished it, although there is no evidence that her sister desired it or said anything about it ; she said to Prince Arthur that her sister’s desire was that they should come there and live with her, and that the insurance should be made over to her. We say that was the next step, and it was taken for the purpose of accomplishing this scheme, for the purpose of getting this two thousand dollars. But it was not enough. It was necessary that it should be assigned to her. I don’t know when it had been agreed the assignment should be made. Prince Arthur said, on the day of the funeral, that the assignment should be made to her, and that he would come over and live with her. The actual consummation was on the 13th of May, when the policy was actually assigned.

All this time — for a long time — Mrs. Robinson had been in hard straits. She had been pushed by her creditors. She had insured her furniture, and, you understand, she was a very poor woman, — I say a very poor woman ; I do not mean she did not have furniture and a comfortably furnished house, but I mean to say that she was sorely pressed for money all the time. She had mortgaged her personal property to at least five different people, who at this time held mortgages, and she gave different names, such as Ella Robinson for one, Marshall for another, and her own name for another. Now, she did this for one purpose, because, you know when a man takes a mortgage of personal property the first thing he does is to go and examine the records, to see whether there is any prior mortgage upon it. And so did the holders of these mortgages go and examine, in almost every instance, the records of mortgages on personal property at the city clerk’s office. Not seeing the same name there, each supposed that his was the first mortgage. That is getting money under false pretences. One or two of these parties had gone over to

her and told her that she had been getting money under false pretences, and were about to arrest her. One of her creditors, Mr. Desmond, went over to see her about his loan, and she promised she would pay it out of the insurance she expected to get out of her husband's (Moses) death, because Moses had died and she supposed she had an insurance of two thousand dollars on his life, and had brought suit to recover it. She promised Mr. Desmond to pay that mortgage out of this insurance. She did not succeed in getting it,—her suit did not prevail,—and so in May, just about the time when this policy of insurance was assigned, Mr. Desmond went over to see her, and said: “Now, I must have that money, Mrs. Robinson;” and, in her desperation, she turned to him and said: “Mr. Desmond, I am going to have some money pretty soon, and I will pay you.” There was something peculiar about the way she said it,—I don't know what it was,—which attracted Mr. Desmond's attention, and he said to her: “Why, Mrs. Robinson, what is all this mystery about?”

Now, we find the sister has died, that the family have come over to live with Mrs. Robinson, that the insurance has been assigned to her. But that is not enough. We say this is of consequence, as it has a tendency to show what her motive was if she killed Prince Arthur Freeman. The next step was to kill him and get him out of the way so she could have the insurance. While outwardly and before people she had been affectionate and kind towards him after he came to live with her, yet when she was not on exhibition,—when the pastor of her church was not there, when she was among her own family and the inmates of her own house,—she showed her real feelings, and commenced to talk about this man. She said he was a worthless fellow. She said she never would have had him come to live with her if it had not been for the insurance; that he could not earn his living; that she had got him a place over in Mount Auburn to work, and that he was too lazy to get a living; that he could not earn enough to support himself; that he earned only six dollars a week in South Boston, and spent more than half he earned in car fares; that he was a poor, worthless fellow; that she wished he was dead; that he had better die; and she said she wished somebody would give him a dose and put him out of the way. That last conversation took place at her supper table, and, as she said it, she started back as if she was going to faint. Her daughter said: “Why, father has been coming to her.” She said: “Yes.” She had received notice from her father that Prince Arthur was going to die very soon. Then, on the 17th of June, she told Prince Arthur that she wanted him to go over to Charlestown to see his mother, Mrs. Freeman, and said he might not live to see her again alive. It

was such a remarkable statement for a woman to make, I shall have something further to say about it upon the fact of her having made that statement. She said he must go over and see his mother in Charlestown, because he was going to die. I cannot explain it only on the theory that in committing great crimes people do lose their balance of mind and will do those things they would not be expected to do; because everybody who commits crime does not possess a perfectly balanced mind. She exhibited knowledge of something that was going to take place. She also said, after he was taken sick, that she knew he was going to die. Well, on the 22d of June, five days after he had been over, by Mrs. Robinson's instructions, to take final leave of his mother, he started out after breakfast for his work in South Boston, and was taken sick, vomiting on the road, probably, going over there. That is what one of the officers said in the presence of Mrs. Robinson, and I think there will be a witness who will testify that Mrs. Robinson said so, but, of course, she didn't know it. He was taken sick on the road over to South Boston, after his breakfast, probably. Very soon after he got over there he was so sick he was excused from work, and came home. Mrs. Robinson was expecting him home, sick; she said so to different witnesses. She was looking for him. And he did come home, sick to his stomach. She told him to go right to bed, and she sent right off for a doctor. Now, there was nothing, apparently, worse about him at that time than about any man a dozen or twenty times every year; a man is sick to his stomach, is affected with nausea or a headache, and ordinarily we do not think of sending for a doctor. But she put him to bed and sent for the doctor, and immediately commenced telling everybody that he was going to die, and that he would never get out. The reason was that she had a communication from the spirit land, because her husband had come below to earth and told her that Prince Arthur was not going to live, and that he would never get out of bed again. She never told any other story to any body from that night when he went to bed. She begins to exhibit a good deal of interest in that insurance which had been made over to her on the 13th of May. This was the 22d of June. On that night, when Prince Arthur was taken sick, she dispatches her daughter and one Belle Clough over to the officers of the lodge of the Colony of Pilgrim Fathers to ascertain whether the insurance is all right or not. I don't know whether they got any very definite knowledge, but, at any rate, Mrs. Robinson was not satisfied; and twice afterwards, during the week, she sent over a message again to the lodge, and finally, on Friday night, she sent over to Mrs. Stanwood, the collector of the Colony, and wanted Mrs. Stanwood to come over. There were two or three trifling assessments which, I suppose, had

not been paid up. It was the latter part of the month. At any rate she wanted to see about it, and Mrs. Stanwood came over. Mrs. Stanwood was a stranger; she had never seen her before. Mrs. Stanwood said, yes, she had heard a day or two before, and the insurance was all right. Then she went on to tell how poor she was to Mrs. Stanwood; said she didn't have any money; said that Prince Arthur Freeman had only fifty cents, and said: "I have gone without food on my table to keep these assessments paid up." A remark that is remarkable, in view of the fact that the man was apparently healthy and likely to live as long as she would. But she had deprived herself of food to keep these insurance assessments paid up on somebody's life in which she had no real interest, and no one had, only for the future care of this little boy and Lizzie. It would be, as the government say, a remarkable statement for her to make, unless she was going to get some benefit out of this insurance. Then she told Mrs. Stanwood she didn't want to let Mrs. Melvin—Mr. Freeman's sister—know anything about it; she didn't want to have her tell Mrs. Melvin that the insurance had been assigned. Mrs. Stanwood, thinking it was none of her business, said she would not.

Well, Prince Arthur Freeman died on the twenty-seventh day of June, and we shall show you that his symptoms were the symptoms of arsenical poisoning. One fact is pretty significant, — he had been sick about a week, until Friday night; he was sick Friday night, very sick, when Mrs. Stanwood was there, and Mrs. Robinson had been taking care of him, with her daughter Lizzie, and somebody else came in that night to take care of him, and that was his own sister, Mrs. Melvin. Now, the doctor will testify that after that time there was a change for the better. On Saturday morning there was a change for the better. And the government say that it was because Mrs. Robinson had not had access to him that night. Mrs. Melvin had taken care of him, and so the next morning he was better. Mrs. Melvin had stayed there during the day, Saturday; and during the day he was better. She went away, unfortunately, in the evening and left this man in charge of Mrs. Robinson, and Saturday night he was dead.

On the 22d of September, in due time, this insurance of two thousand dollars was paid over to this woman, — paid over to her for the purpose of taking care of this little boy. Now, what did she do with it? Why, we find the first thing that she did, was to take this insurance money, and, instead of using it for the benefit of this boy, use it to pay off her own debts and encumbrances; she takes a portion of it and gets her daughter Lizzie's life insured; she takes a portion and fits herself up with clothes and furniture, and moves into a larger building in Somerville; and a portion

of it she takes for a journey to the West. So there is very little left for the little boy, and she says that there is not much of any insurance left for him.

I cannot say anything about this little boy at this time, gentlemen; I am not talking about him now. But this woman had these two members of the family and the others had died. She seems to have been haunted by them, as they came back to her. And one witness said to her: "Mrs. Robinson, what have you been doing to all these people who have died, that they come back to you?" She fainted and fell to the floor.

She got the money, she used it for her own benefit, the boy had nothing from it, — nothing to speak of. Now, I think you will be satisfied, gentlemen, that Prince Arthur Freeman died from arsenic, which was administered to him by somebody. I think you will be satisfied that the prisoner, Sarah Jane Robinson, had the opportunity to administer that arsenic, and that she was the only person in the world who had any interest in his death. You will believe, I venture to say, from the evidence, that she commenced to weave that fatal web at least as long ago as 1885, during the sickness of her sister Annie; that she came to take care of her and discharged the nurse, and Annie commenced to grow worse and exhibited new symptoms, and, after about a week, she died, from the effects of arsenic administered to her by somebody, having been taken care of and nursed all the time by this woman, — Mrs. Robinson. I do not mean to say there had not been watchers there, because we shall introduce members of the church who went there and stayed with Mrs. Freeman during parts of the night. During her sister's sickness Mrs. Robinson said she was going to die, exhibiting a knowledge not possessed by the attending physician even. The wires were laid, the influence sought which would induce Prince Arthur Freeman and the children to come over and live with her, even before Annie's death. In the very house of mourning and at the funeral ceremony her active mind is scheming lest her brother-in-law and children should be put under the influence of his sister, Mrs. Melvin, over in Charlestown, and his own relatives there. And she says that all Mrs. Melvin cared about him was to get the insurance, and she turned to her brother-in-law and said: "Your sister would be mad if you should come and live with me and assign me that insurance." And he said: "That is so; I will go and live with you."

Little Lizzie, the infant, died in April. I have not anything to say about little Lizzie. There is no evidence that she was killed. She was a little infant, and you are not to presume anything against Mrs. Robinson about her. It is to be presumed she died a natural death.

Mrs. Robinson was pressed very hard by her creditors. She had

been threatened with arrest. She had spoken to Mr. Desmond in such a way that he said to her: "What is all this mystery about?" This woman had said something to the effect that she was going to have money, and going to have it from some source he did not know where. Then her feeling towards her brother-in-law apparently commenced to change, and she commenced to speak of him as a worthless fellow and say that she wished he was out of the way, and she wished he would die, and she wished somebody would give him a dose and put him out of the way. On the 17th of June she sends him to his mother to make her a farewell visit. On Monday he goes to his work, and is sick on his way there; he returns home sick and is put to bed, a doctor sent for, and he is consigned to the grave. Meanwhile she tells everybody that he is going to die, exhibiting a prescience possessed by nobody else. She sends repeated messages over to see if the insurance is all right; sends for Mrs. Stanwood to come over and tells her that she had been without food on her own table in order to keep the insurance assessments paid up, and asks her to say nothing to Mrs. Melvin about the last assessment. Now, the last nail was driven. The insurance was elined on Friday evening, on Saturday night Prince Arthur Freeman was a piece of clay. A second life had gone out. The scheme had thus far worked successfully. There was a master hand at the end of the wires, and every figure had moved in its proper place. On the 22d of September the money, two thousand dollars, was paid over to her, and it was paid over to her for the purpose of taking care of little Thomas Arthur Freeman. How did she fulfil this trust? We find that this pious, kind and affectionate aunt, who received two thousand dollars for this orphan, used it for her own purposes and not for the purpose of taking care of him; she used it in paying off her own debts and encumbrances, in getting her daughter Lizzie's life insured, enjoying the luxury of a trip to the West. The money is received, most of it gone, and not enough left, as she said, to take care of the little boy. Now, we find that two people have died with the same symptoms, produced by the same cause, effected by the same poison under the care of the same woman. She commences to dream dreams and to see visions; she is haunted by the spectres of those who have gone to the land of shadows, and when Chandler says, "What have you done to these people that they come back to you?" she faints and falls prostrate upon the floor. Her acts rise up like ghastly ghosts against her, verifying the truth that exists so often in the history of great crimes,

"Whom the gods would destroy, they first make mad."

It is of the highest consequence, gentlemen, that this should not be a mis-trial. I pray you, in this case do your duty well.

TESTIMONY.

DR. ARCHIBALD T. DAVIDSON -- *sworn*.

Direct examination.

Q. (By Mr. STEVENS.) Doctor, what is your full name?
A. Archibald T. Davidson.

Q. You are a member of the Massachusetts Medical Society?
A. I am.

Q. And you are a practising physician in South Boston? A. I am, sir.

Q. And you were for some years the family physician of Mrs. Freeman? — Mr. Freeman? A. Yes, sir.

Q. And that family consisted of whom? A. Mr. Freeman and wife and two children.

Q. One of them is Lizzie, an infant? A. Yes, sir.

Q. And the other is Thomas Arthur? A. Yes, sir.

Q. Who was how old at that time? A. I do not remember exactly his age.

Q. Were you called, doctor, to Mrs. Freeman — I will ask you in the first place, financially what was the condition of this family?
A. They were always very poor.

Q. Were you called to Mrs. Freeman in February, 1885? A. I was.

Q. When? A. February 10th.

Q. To Mrs. Freeman? A. Yes, sir.

Q. Now, will you state what was the matter with her?

[Objected to.]

FIELD, J. I thought we indicated our wish that before you went into the cause of Mrs. Freeman's death you should introduce whatever evidence you have, any plan or purpose or intention or knowledge on the part of this defendant, such as we indicated in our ruling.

Mr. STEVENS. Of course it is very difficult to say what the weight of the different testimony would be. It seems to me that bearing upon this fact, that this woman was taken sick with pneumonia and was getting better —

FIELD, J. For instance, we required some evidence as to the insurance ; some evidence of the formation of some intention, before going into the question of the cause of Mrs. Freeman's death or the connection of this defendant with it.

Mr. STEVENS. You may step down for the present.

MRS. SUSAN S. MARSHALL — *sworn*.

Direct examination.

Q. (By Mr. STEVENS.) Mrs. Marshall, your full name is Susan S. Marshall? A. It is.

Q. And you reside in South Boston? A. Boston proper.

Q. You know Mrs. Robinson? A. I do.

Q. Were you over there when Mrs. Freeman was sick? A. I was.

Q. Did you have any conversation with Mrs. Robinson in regard to insurance on Mrs. Freeman's life, before she died? A. I did not.

Q. You did not have any conversation with Mrs. Robinson in regard to the insurance? A. No, sir.

Q. You knew of the insurance? A. I did.

Q. I understood you had had some conversation with her about it. Did you at any subsequent time have any conversation with Mrs. Robinson about her having known of the insurance on Mrs. Freeman? A. About the time of Prince Arthur's being insured we were in conversation in regard to it.

Q. You and Mrs. Robinson? A. Yes.

Q. What was it? A. It was simply the fact that she remarked that he was insured in that Order or had joined the Order—to that effect; being the same Order that I belonged to myself.

Q. That was what? A. The fact that Prince Arthur had joined the Order to which I, myself, belonged. It was only a casual remark.

Q. Do you remember what year that was? A. No, sir; I do not correctly.

Q. About the time that Prince Arthur was insured? A. Yes, sir; within a month or six weeks of the time of his insurance.

Q. Did you ever, at any other time, have any conversation? A. Not that I recollect of.

Q. Did you have any conversation with her after? A. Not in regard to the insurance.

Q. Now, you need not answer this question until the court has ruled upon it. I want to know if Mrs. Robinson said anything to you—you were over there while Annie was sick? A. During a portion of the last three days.

Q. Whether or not Mrs. Robinson said anything to you, at that time while you were there, about Prince Arthur and the children coming to live with her after Annie died?

[Objected to.]

FIELD, J. Anything that Mrs. Robinson said about it we think is competent.

A. She did.

Q. What was it? A. She asked me if I had any influence, as a friend of Mr. Freeman, to advise him to come and live with her, where his children were, after Annie was buried.

Q. After Annie was dead? A. After Annie was buried.

Q. (By FIELD, J.) She asked you this when? A. She asked me about two hours after Annie ceased breathing.

Q. She asked you this about two hours after Annie's death? A. Yes.

Q. (By Mr. STEVENS.) Did she say anything to you before Annie died about it? A. No, sir.

Q. Did she express any opinion to you —

[Objected to.]

MR. STEVENS. I have various witnesses to whom she expressed the opinion that her sister was going to die. Do I understand that the court do not care to hear that evidence at present which we say was a circumstance in connection with the other circumstances?

FIELD, J. We will rule upon the testimony when it is in. It is pretty difficult to distinguish —

MR. STEVENS. It is very difficult for me to put in the case in this way.

FIELD, J. We do not propose to admit any evidence of the cause of Mrs. Freeman's death until after we rule upon the points we indicated. But whether evidence of the declarations of Mrs. Robinson, and conversations of Mrs. Robinson, in connection with other things, goes to show that she knew of the insurance and had the intention you indicated, we cannot very well tell till the evidence goes in; and on the whole we are inclined to admit any conversations with Mrs. Robinson at the present time.

Q. I will ask you when it was that you first went over there during Annie's sickness? A. On the 24th of February.

Q. That was how long before she died? A. She died on the 27th, and I went on the 24th.

Q. Did you have on that day any conversation with Mrs. Robinson about her sister? A. Yes, sir.

Q. What was it? A. She remarked that she did not expect that Annie would ever be any better or ever leave her room.

Q. Anything else said about it? A. Nothing, only my reply, that I remember.

Q. What was that? A. "I don't think by her appearance that she ever will."

Q. Did you afterwards have any conversation with her? A. The same, or very similar, of like import, was repeated.

Q. How many times were you there? A. Three.

Q. Three times? A. Yes, sir.

Q. You spent the afternoon of the 24th there? A. I was called on the 24th but I did not get there till the 25th. I was mistaken in making the statement. I went on the 25th; my note I received on the evening of the 24th.

Q. Mrs. Robinson had sent for you? A. Had sent me a note.

Q. And you went there again? A. About nine o'clock on the 25th, and stayed till about five.

Q. That was the first time? A. Yes. On the 26th I went about the same hour, and I left about the same hour. On the 27th, the day of her death, I did not get there till about ten o'clock, or ten or fifteen minutes after, and I remained till about five o'clock in the afternoon, when she was laid out.

Q. Did she tell you at any time when she came there to take care of her? A. She said she had been there a week. When I first called she said she had been taking care of her sister a week, and she was very weary.

Q. Did you have any conversation with Mrs. Robinson other than what you have stated, after the death of Annie? A. No, sir.

Q. She asked you to use your influence? A. Yes.

Q. Did you have any conversation with her more than once on that subject? A. No, sir.

Mr. STEVENS. That is all I think of in connection with this branch of the case. I have some further evidence to put in by and by.

FIELD, J. You can, of course, go into any other matter connected with the case, with the witness.

Mr. STEVENS. I cannot go into any other evidence in connection with poisoning, I understood.

FIELD, J. No, not yet.

Mr. GOODRICH. If your Honor please, if this evidence should appear subsequently to be immaterial, I should have taken up uselessly the time of the court on that in any cross-examination, and therefore I will waive for the present any cross-examination, with a right to recall her when the question at issue shall be definitely settled.

FIELD, J. The only difficulty is, I do not know whether they expect the witness to be in attendance during the whole trial.

Mr. GOODRICH. I think she should be.

Mr. STEVENS. If you desire to cross-examine her, she shall be.

Mr. GOODRICH. Very well.

Mrs. CATHERINE MELVIN — *sworn*.

Direct examination.

Q. (By Mr. STEVENS.) Mrs. Melvin, you were a sister of Prince Arthur Freeman? A. I was.

Q. Do you know Mrs. Robinson? A. I do.

Q. Did you have any conversation with her about Prince Freeman's insurance before your sister died? A. No, sir.

Q. Did you afterwards? A. Not until after my brother died.

Q. Did you have any conversation with Mrs. Robinson about whether or not her sister would recover, before she died? A. I cannot remember that I had any conversation; I did not think myself that she would recover; she appeared to think so herself.

Mr. STEVENS. That is all for the present.

Mrs. MARY J. WRIGHT — *sworn*.

Direct examination.

Q. (By Mr. STEVENS.) What is your name? A. My own given name?

Q. Yes. A. Mrs. Mary J. Wright.

Q. Where did you live in February, 1885? A. F Street, South Boston.

Q. In the same house with Mrs. Freeman? A. Yes.

Q. Whereabouts did you live in the house? A. The lower tenement.

Q. How many tenants were there in the house? A. There were three tenements, — Mrs. Freeman lived in the upper tenement and I had the lower one.

Q. And who occupied the middle tenement? A. Mrs. Buss.

Q. Now, did Mrs. Robinson say anything to you before Mrs. Freeman died about insurance? A. No, sir.

Q. Did she have any conversation with you about whether she thought her sister would recover or not? A. Yes, sir.

Q. When was that? A. It was quite frequently after she came there to take care of her sister.

Q. Well, immediately after she came there? A. Yes, sir.

Q. And what did she tell you? A. In regard to what?

Q. In regard to her sister's recovery. A. She said that she felt as though she ought to come and take care of her sister. — that she

had had a terrible dream, and she knew her sister would never get any better, and that whenever she had a dream like that there was always one of the family died, and she knew she would never recover.

Q. Now, at that time — that was, you say, immediately after she came there? A. Yes, sir.

Q. What was Mrs. Freeman's appearance at that time? A. Mr. Freeman's?

Q. Yes. A. What, in regard to health?

Q. Yes; in regard to her sickness. A. Oh, Mrs. Freeman?

Q. Yes; whether she was getting better or not. A. Yes; she seemed to get better, and all of a sudden she seemed to sink very fast.

Q. When was it she, all of a sudden, seemed to sink very fast? A. The last three or four days before she died.

Q. Did Mrs. Robinson say anything to you before she died about using your influence with Prince Arthur to get him and the children to come home and live with her? A. Yes.

Q. When was that? A. That was before and after Annie died.

Q. What did she say? A. She said, "Mr. Freeman comes down to your place quite frequently, and if he should say anything about where he was going to stay if anything should happen to Annie," she said, "you use your —"

[Defendant's counsel requests witness to speak louder.]

Q. What was the conversation? A. That if Mr. Freeman made any remark where he would like to stay after Mrs. Freeman died to use my influence in regard to having him go to her house with the children, — make his home there.

Q. Anything further? A. It is not just on that conversation, but it comes in with it.

Q. Well, what is it? A. It was one evening; she requested Prince Arthur Freeman to go into the chamber where his wife was, and she went in, no other person with her. She came out and she says, "There, I have fixed it all right now; any little rings, or anything that Annie has, I have had her distribute so that there will be no trouble if anything should happen to her, and the children are to come to me." Mr. Freeman made a remark, and he says, "Well, she has made provision for the children but not for me." She turned around and says, "Oh, you are only half-baked; Annie knows well enough that you will follow the children." That is all that I can say.

Q. Do you recall any other conversation? A. No, sir.

Q. Didn't you at any time have any conversation with her, either before or after Annie died — you said you did not before — did you

after Annie died have any conversation about the insurance? A. No, sir.

Mr. STEVENS. That is all.

Cross-examination.

Q. (By Mr. GOODRICH.) At any time after the death of Mrs. Freeman did you have occasion to repeat these conversations with her, that you have just detailed, to anybody? A. No, sir.

Q. So far as you remember, when was the first time that you had occasion to speak of these conversations that you had with Mrs. Robinson? A. Oh, not till I was notified of this case, I believe — the party that notified me.

Q. Mrs. Freeman died three years ago this month? A. Yes, sir.

Q. And when were you notified to appear in this case? A. Last December.

Q. And up to last December you had had no occasion to refer to these conversations that you had had with Mrs. Robinson? A. Well, I believe that they wished my presence, but didn't know where to find me.

Q. I say, up to that time? A. No, sir.

Q. And during all that time, what Mrs. Robinson had said to you as you have now described it, you had not had occasion — no particular occasion — to refresh your memory in regard to it? A. No, sir.

Q. Nothing had occurred, so far as you recollect, up to December to recall the circumstances of these conversations with Mrs. Robinson to your memory? A. No, sir.

Q. And from that lapse of time perhaps you intend to give the substance of her language in some particulars rather than the exact language; how is that? A. No; I gave the exact words.

Q. The exact words in each case? A. Yes.

Q. You kept house? A. Yes, sir.

Q. With your husband? A. Yes, sir.

Q. And were you up in Mrs. Freeman's rooms when this conversation took place, each time? A. Well, both' times — once it occurred on my own premises and once up at Mrs. Freeman's.

Q. Do you remember at what stage of Mrs. Freeman's sickness it was that she spoke of your using your influence with Mr. Freeman to come to her house? A. It was just a few days before she died, and after she died.

Q. You mean shortly before she died? A. Yes, sir.

Q. Her first conversation with you about Mr. Freeman coming to her house to live was shortly before Mrs. Freeman's death? A. Yes, sir.

Q. And it was repeated after her death? A. Yes, sir.

Q. Do you remember how long before her death it was that she expressed to you the opinion that Mrs. Freeman would not recover?

A. She expressed the opinion within a day or two after she came there. She insisted to everybody that came in that she would never recover.

Q. Do you know everybody that came in? A. Well, not everybody, — I know pretty nearly, — I have seen the faces.

Q. What do you mean by saying that she made that same statement to everybody that came in? A. Why, they naturally would ask how she was getting along; she would insist upon it that she was not any better and never would be any better.

Q. But you use the language that “to everybody that came in” she made that statement. A. Mostly everybody.

Q. What proportion of the time were you in Mrs. Freeman’s room? A. I was there quite frequently. My husband doesn’t come home much, so I was up there about all the time.

Q. Many people came during her sickness? A. Yes, sir.

Q. A great many people? A. Not any more than has been notified of the trial.

Q. You seem to know who has been notified of the trial. A. Yes, sir.

Q. How do you know? A. By seeing their faces here.

Q. You recognize a good many that you saw there during the sickness? A. Yes, sir.

Q. And last December how happened your attention first to be called to these conversations with Mrs. Robinson? A. When a gentleman came over to ask me some questions.

Q. Who was the gentleman? A. I could not tell you.

Q. Do you see him here? A. Yes, sir; I think he is Officer Cavanagh.

Q. Then you think you do know who he was? A. Yes, sir.

Q. When you said you did not know — A. I meant I did not know his name at the time.

Q. Did Officer Cavanagh take down what you said? A. Yes, sir.

Q. In writing. And after that when did any one come to you or speak to you in regard to these conversations? A. Not until this case came on.

Q. How long ago? A. Two weeks ago, I think.

Q. And within the last two weeks have you had conversations in regard to your expected testimony? A. To other parties?

Q. Yes. A. No, sir.

Q. No one except Officer Cavanagh? A. No, sir.

Q. And within the last two weeks have you reviewed the matter with him? A. No, only just that once that he was at my house.

Q. During the last two weeks you have not said anything to Officer Cavanagh about it? A. No, sir.

Q. How long was Mrs. Freeman sick? A. I think she was sick three weeks.

Q. And how long was Mrs. Robinson there? A. Two weeks.

Q. I want to ask you, Mrs. Wright, if you have ever seen Dr. Charles C. Beers, or a person who goes by that name? A. Yes, sir.

Q. Did you see him at the house during the sickness of Mrs. Freeman? A. Yes, sir.

Q. How frequently was he there? A. I saw him there three times.

Q. Three different times? And can you remember at what stages of her sickness his visits were? A. The last two visits were the week that she died.

Q. Did you have any conversation with Dr. Beers? A. Nothing more; I was introduced to him, that is all.

Q. Do you remember how long he remained there during the visits that you know of? A. I cannot tell exactly how long; it was not quite all the afternoon, but I don't know just exactly how long. At one time he came about eleven o'clock in the forenoon, and stayed about—I should judge, about an hour and a half.

Q. And at another time he stayed substantially the whole afternoon? A. Well, I would not say the whole afternoon, but a good part of it.

Q. The greater part of it? A. Yes, somewhere in the vicinity of three or half-past three.

Q. And at another time, if you remember? A. It was in the evening.

Q. Was he in the room with Mrs. Freeman? A. No, sir.

Q. Where was he? A. In the kitchen.

Q. Were the kitchen and sitting room a common room? A. It served as a kitchen and sitting room while Mrs. Freeman was sick.

Q. He was in the same room where other callers remained? A. Yes, sir.

Q. Do you know whether or not he attended to Mrs. Freeman in her sickness at all? A. Not that I know of.

Q. You know nothing about that? Did he say anything that you remember in regard to her sickness or symptoms? A. No, sir; he came just to see Mrs. Robinson. Once he came over on an errand and twice he came over to see her, to make a little visit.

Q. He came over to visit Mrs. Robinson? A. Twice, and once he came on an errand.

Q. And at the time he came on an errand he stayed an hour and a half, did he? A. Yes, sir.

Q. And on the other two occasions he came over to visit Mrs. Robinson? A. Yes, sir.

Q. Why do you know that was his purpose? A. I was up there when he happened to come in, and I believe that Mrs. Robinson was to have had her daughter Lizzie bring over a bottle of medicine that she was to take, prescribed for her by a physician, and she had forgotten the bottle when she first came over and Lizzie did not come over as she promised, so she sent Dr. Beers over with it, and I was there when he took the bottle out of his pocket and laid it on the mantelpiece.

Q. What kind of a bottle was it that Dr. Beers took out of his pocket? A. It was a kind of a square bottle about so long [indicating]. I couldn't tell you just how many ounces — a square bottle; it seemed to be full.

Q. With reference to the measure of a gill, what should you say to be the capacity of the bottle? A. Well, I should say it was an ordinary medicine bottle such as a physician would order.

Q. How much would it hold, do you think? A. I have no idea at all.

Q. So much as a gill? A. Yes, so much as that if not more.

Q. As much as half a pint, from your recollection? A. Oh, no, not half a pint.

Q. As much or more than a gill, you would say? A. Yes.

Q. You saw the bottle itself? A. Yes.

Q. Then of course you could see the contents of it? A. Yes, sir.

Q. And what was the appearance of the contents? A. Well, it appeared like — I should judge it was water if I had not known it was medicine.

Q. It was colorless, was it? A. Yes, sir.

Q. You saw him take it from his pocket? A. Yes, sir.

Q. And put it upon the mantelpiece? A. Yes, sir.

Q. And when he went away was it there? A. Yes, sir.

Q. And have you any recollection how long this was before Mrs. Freeman's death? A. It was the very week that she died; it was on a Monday — Monday before she died, in the morning.

Q. Do you remember what day she died? A. She died the 27th of February.

Q. Do you remember what day of the week that was? A. On Thursday.

Q. Did you ever afterwards think about that matter until your attention was called to this case? A. Yes, sir, when I first read of Mrs. Robinson being arrested and accused of poisoning I thought of it.

Q. That was in August of 1886, was it? A. Yes, sir.

Q. That was a year and some months afterwards? A. Yes, sir.

Q. And up to that time do you remember to have recalled this circumstance? A. No, sir.

Q. In any way? A. No, sir.

Q. And will you tell us how you fix the date as Monday? A. Because I recollect it very well; my husband was in the habit of going away Monday morning at half-past four, and I was going out to do some shopping, and she said that she was out of alcohol, — not alcohol but whiskey, — Mrs. Freeman used it, and she asked me if I would purchase some for her. I said I would. I went upstairs to get the bottle and the money for the purpose, and Dr. Beers was there; I was introduced to him, and I saw him. In the meantime he had some conversation with Mrs. Robinson, then he happened to think of the bottle. “Oh, here is the bottle,” he says, “that Lizzie told me to bring over to you,” and he laid it on the mantelpiece.

Q. Then this was your first introduction to Dr. Beers? A. Yes, sir.

Q. And this was the first of the three times that you saw him there? A. Yes, sir.

Q. His other two visits, then, were subsequent to that Monday? A. Yes, sir.

Q. On the first day that Mrs. Robinson came to the house did you go with her to Dr. Davidson’s office? A. I think it was the evening of the second day.

Q. Was there then some conversation between Dr. Davidson and Mrs. Robinson? A. Yes, sir.

Q. And in regard to Mrs. Freeman’s condition? A. Yes, sir.

Q. Do you remember what it was? A. Mrs. Robinson asked him if he really thought she would recover, and he said there was no reason why she should not, — that she was a very sick woman, — that with good care she would pull through.

Q. Dr. Davidson said she was a very sick woman? A. Yes, sir.

Q. Do you know when Mrs. Robinson came to the house the first time, the first day? A. Yes, sir.

Q. Are you sure that it was not the first night of her arrival there? A. It might have been, but I think it was the second night.

Q. Would you be positive upon that point? A. No, sir, I am not positive.

Mr. GOODRICH. That is all.

MARY L. MOORE — *sworn.*

Direct examination.

Q. (By Mr. STEVENS.) Your full name, madame, is Mary L. Moore? A. Yes, sir.

Q. And you live at South Boston? A. Yes, sir.

Q. You were a member of the same church with Mrs. Freeman?
A. Yes, sir.

Q. And did you go over one night while she was sick to sit up with her? A. Yes, sir.

Q. What night was it? A. Sunday night was the first.

Q. How many times did you go there? A. Three times.

Q. Was Mrs. Robinson there each time? A. Yes, sir.

Q. You went there first Sunday night? A. Yes, sir.

Q. How long did you stay? A. I went a little while in the afternoon and then went back and went to my evening service, and then went back and remained all night.

Q. That was Sunday? A. That was Sunday.

Q. The Sunday before she died? A. Yes, sir.

Q. And how long was that after Mrs. Robinson came there?
A. I could not tell you when she came there; not long.

Q. What was Mrs. Freeman's appearance at that time? A. Well, she was a pretty sick woman.

Q. Did you have any conversation with Mrs. Robinson about her living? A. About her—?

Q. About her dying—about Mrs. Freeman's dying? A. Well, she seemed to think that she would not recover.

Q. What did she say about it? A. Well, she seemed to—she would ask me if I did not call her a very sick person—if I did not think that she would—if I thought that she would pull through.

Q. What did she say herself about her opinion? A. She did not seem to think that she could recover.

Q. Now, did she say anything to you about you using your influence to have her brother-in-law and the children come to live with her after Annie was dead? A. She said that was what she was going to do—asked me if I didn't think that was as it ought to be; and then she said to me—"Of course," she says, "you will use your influence."

Q. What did you say she said? A. She asked me if I didn't think it would be the best. "And of course," she says, "you will use your influence."

Q. Now, when was this first conversation that you had about that?
A. I could not tell you which night it was, but it was one of the nights, although I went there day times,—but it was one of the nights that I was a watcher.

Q. Do you remember having any other conversation at any other time with Mrs. Robinson about it? A. Well, different times she would speak of the way things would go if she was taken away.

Q. What did she say about it? A. Well, planned as any one would.

Q. Well, we want to know what she said, Mrs. Moore, if you please. A. Well, about going over there to her home — taking him home and the children.

Q. Did she say anything about Freeman's friends — about Mrs. Melvin? A. Yes, sir.

Q. What did she say? A. Well, she did not appear to want them to have him.

Q. Did she say why? A. Well, yes; she seemed to think they wouldn't do as well by him as she would.

Q. Anything said about the insurance? A. Yes, she spoke of it.

Q. What did she say? A. She told me that his life was insured and it was in sister Freeman's name.

Q. Did she say anything about its being made over to her? A. No.

Q. Not at all? A. No.

Q. Did you have any conversation with her after Mrs. Freeman died about this, — either about the insurance or about the family going to live with her? A. Well, she told me that they were going to live with her.

Q. Did you know anything about Mr. Barnes wanting to adopt little Arthur? A. I heard of it.

Q. Did you have any talk with Mrs. Robinson about it? A. No; she never told me about it.

Q. You knew that Mr. Barnes wanted to adopt little Arthur? A. Mr. GOODRICH. Well, hardly that.

Mr. STEVENS. Well, no matter if you did not have any talk with Mrs. Robinson about it. I believe that is all, Mrs. Moore.

Cross-examination.

Q. (By Mr. GOODRICH.) Mrs. Moore, you lived in the vicinity of Mrs. Freeman at the time of her sickness? A. Yes, sir.

Q. How near? A. Oh, quite near.

Q. And Mrs. Robinson, you remember, asked you if you did not think that she was a very sick woman? A. Yes.

Q. Do you remember what your response was? A. Well, I don't know that I do know that.

Q. Do you remember that you seemed to differ with her at all in her estimate of Mrs. Freeman's condition? A. I thought there was a prospect of her recovery.

Q. What did you think about her being a very sick woman? A. I think that she had been a very sick woman, but I think she was — when I left her that morning she was quite comfortable.

Q. She had been a very sick woman? A. Yes, sir.

Q. Now, will you tell us whether you can remember so as to be able to tell the jury whether or not Mrs. Robinson's remarks to you

about her condition were while she was a very sick woman, or whether they were on that morning when she seemed to you to be more comfortable? Can you tell which? A. Oh, it was before this morning that I speak of.

Q. Oh, it was? A. Yes.

Q. Then at the time that in your estimate she was a very sick woman, it was at that time that Mrs. Robinson asked you if you did not think she was a very sick woman, was it? A. Well, I thought she was very sick, but they said that she had been sicker.

Q. And then she spoke of what disposition should be made of the children and of the family in the event of her death, and you say that she talked to you about it just as any one would? A. Yes.

Q. That was so, was it? A. Seemed to be quite friendly, as though she thought that was the best thing to be done, and asked me if I did not think so.

Q. She seemed to be anxious, so far as you could observe, for the welfare of the children? A. Appeared so; very much so.

Q. Appeared to be solicitous, did she, in regard to her sister's health, — condition? A. Yes, sir.

Q. And was she kind and attentive to her sister? A. Yes.

Q. Seemed to be truly anxious and solicitous about it, didn't she? A. Yes.

Q. You noticed nothing which appeared to you, did you, to indicate that she was not really solicitous for her sister's health? A. No; I saw nothing to that effect.

Q. And you had no conversation with her which indicated anything else? A. No; nothing any time I spoke to her.

MRS. LUTHERIA W. HUNT — *sworn.*

Direct examination.

Q. (By Mr. STEVENS.) What is your full name? A. Mrs. Lutheria W. Hunt.

Q. You reside where? A. 31 Old Harbor Street, South Boston.

Q. And were you a member of the same church with Mrs. Freeman? A. No, sir; I was not.

Q. Did you go there while she was sick? A. I did.

Q. When? A. I cannot remember the day. I was not there but twice, I think, before I sat up with her.

Q. Do you remember how long it was before Mrs. Freeman died that you went there? A. She died of a Thursday, and I didn't go there until, I think, Monday or Tuesday before.

Q. Monday or Tuesday before? A. Yes, sir.

Q. Now, at that time, did you have any conversation with Mrs. Robinson about her? A. No, sir.

Q. Any time, did you? A. No, sir.

Q. About Mrs. Freeman? A. No, sir.

Q. Did she express any opinion to you as to whether or not Annie would live? A. Not to me, sir.

Q. Did she say anything about the family's coming to live with her? A. No, sir.

Q. Did you see Mr. Cavanagh at any time, — the officer from Somerville? A. At my house.

Q. Did you have any conversation with him about what occurred when you were at Mrs. Freeman's? A. I only answered a few questions that he asked me.

Q. Do you remember what that conversation was? A. He asked me, I think, — I won't be positive, — how Mrs. Freeman seemed to be.

Q. Now, what did you tell him?

MR. GOODRICH. Well, it does not relate to anything that she has testified to previously; it is hardly material what conversation she had with Mr. Cavanagh, I suppose, inasmuch as it does not tend to contradict anything that she has thus far said.

MR. STEVENS. I don't know whether it does or not.

Q. I want you to refresh your memory, Mrs. Hunt, — you have not exhausted it now, — and I want you to recall whether or not, when you were there at Mrs. Freeman's, Mrs. Robinson said anything to you about whether or not you thought Annie would get well, and whether she wanted to have you use your influence to have Prince Arthur and the children come to live with her after Annie was dead? A. No, sir, she did not.

Q. Now, I will ask you if you told Mr. Cavanagh at that time that Mrs. Robinson told you she knew Annie could not live?

MR. GOODRICH. For what purpose do you ask this question?

MR. STEVENS. I have a right under the statute to put that question.

MR. GOODRICH. I do not ask you what right you have, I ask what your purpose is.

FIELD, J. It is only competent for the purpose of contradicting your witness, for the purpose of doing away with the effect of her testimony; and there has been, I think, substantially no testimony in the case thus far.

MR. STEVENS. I have a right to put in that evidence under the statute, I suppose.

FIELD, J. What is the statute?

[Mr. Stevens submitted Pub. Stats., chap. 169, sect. 22, to the court.]

FIELD, J. The purpose of that statute is this, — that the party

calling a witness, when the witness testifies adversely to that party, may ask the witness if he has not made statements which contradict the testimony on the stand, and he may show by other witnesses that this witness has made contradictory statements, for the purpose of impairing the effect of the adverse testimony; but when a witness testifies that she has had no conversation I do not see how you can introduce testimony that she has said she had conversations. It is not evidence that she had such conversations, and the testimony has not been adverse to you; it is simply no testimony.

MR. STEVENS. My purpose in asking this was simply to call her attention to the fact.

FIELD, J. I suppose you wanted to call attention to the conversation with Mr. Cavanagh for the purpose of refreshing her memory. You cannot show that she stated to Mr. Cavanagh that Mrs. Robinson did say so, and make it evidence, and it does not do away with any adverse testimony that she has given against you, for she has not given any; she simply says she has no recollection. It is not within the intention of that statute; but it is perfectly proper that you should call her attention to whether she did not have a conversation with Officer Cavanagh.

MR. STEVENS. That is my purpose in doing it. I do not propose to put on Mr. Cavanagh to contradict her.

FIELD, J. You have already asked her if she had any conversation with him. If you want to call her attention to the conversation for the purpose of refreshing her recollection, you can ask her whether she did not have a conversation with him about it, for the purpose of refreshing her mind.

Q. Did you go to see her more than once? A. I went to see her twice, I think, before I sat up with her.

Q. When did you sit up with her? A. I sat up with her the Friday night before she died.

Q. She died on Thursday. Did you have any conversation on that Friday night with Mrs. Robinson? A. No, sir, I did not.

Q. Did you say to Mr. Cavanagh when he came over there, that on that Friday night Mrs. Robinson told you that Annie would not live? A. No, sir, I did not; I told Mr. Cavanagh I had no conversation with Mrs. Robinson whatever, for I never saw her before.

MR. STEVENS. That is all.

Cross-examination.

Q. (By Mr. GOODRICH.) You saw Mrs. Robinson there? A. I saw Mrs. Robinson there.

Q. And how long were you there while Mrs. Robinson was there?

A. The night that I stayed there.

Q. You were there only one night? A. I only stayed with her one night.

Mr. GOODRICH. That is all.

Mrs. MARY L. MOORE — *re-called*.

Q. (By Mr. GOODRICH.) Mrs. Moore, in consequence of a suggestion that has been made to me, I want to ask you whether, while you were at Mrs. Freeman's at any time during her sickness, you saw Dr. Charles C. Beers there? A. She gave me an introduction to a doctor, but I could not recollect his name.

Q. Who gave you an introduction? A. Mrs. Robinson.

Q. Do you remember at what stage of Mrs. Freeman's sickness that was? A. Monday afternoon after I sat up Sunday night — the next day, in the afternoon.

Q. It was in the afternoon of Monday? A. Yes, sir.

Q. He was introduced as a doctor, you say? A. Yes, sir.

Q. Have you since seen him anywhere? A. I don't — I have not recognized him.

Q. Should you know him if you saw him? A. I don't know that I should, because he was in a little room and it was quite dark in there. I came upstairs, and this was at the head of the stairs; she came out of that room and she said that was her doctor, that he had come over from where she lived, and she gave me an introduction, but I should not know him if I saw him here.

Q. She said it was her doctor who had come over from where she lived? A. Yes, sir.

Q. At that time do you remember whether there were any other persons present in the apartments of Mrs. Freeman? A. There was not at that time that I saw; I was there and stayed some time and saw no one but the sick lady.

Q. You may give briefly, if you please, a description of the doctor — of the person who was introduced to you as a doctor. A. Well, I did not take notice of him to —

Q. As to his age? A. Well, I should say he was an elderly man.

Q. As to his size, whether large or medium or small? A. Well, he was large — quite a large-sized man.

Q. And whether he wore spectacles or not, do you remember? A. I could not say.

Q. Did you have a conversation with him? A. No, not at all.

Q. Was he gray? A. I think he was.

Q. Do you remember whether he had whiskers and mustache? A. Not well enough to state; I took no notice of him whatever.

Mr. GOODRICH. That is all.

Adjourned at 6 P.M., to Tuesday, February 7, at 9 A.M.

SECOND DAY.

TUESDAY, Feb. 7, 1888.

The court came in at nine o'clock.

BELLE CLOUGH — *sworn*.

Q. (Mr. STEVENS.) What is your name? A. Belle M. Clough.

Q. You have known Mrs. Robinson, Miss Clough, how long? A. About eight years.

Q. And you first became acquainted with her where? A. When they lived on Brookline Street in Cambridge.

Q. She lived on Brookline Street, you say, about eight years ago? A. Yes, sir.

Q. From that time up to 1885, when her sister Annie was sick, how much were you at her house? A. A great deal, almost every day.

Q. Did you spend nights there frequently? A. Yes, sir.

Q. She had a daughter Lizzie? A. Yes, sir.

Q. What were your relations with Lizzie? A. I was her intimate friend.

Q. Now, you remember when Mrs. Freeman died, in 1885? A. Yes, sir.

Q. Did you go to the funeral? A. Yes, sir.

Q. With whom? A. I went in the carriage with Mrs. Robinson and Lizzie.

Q. Where was the funeral? A. I don't know the name of the street; it was in South Boston.

Q. Did you have any conversation with Mrs. Robinson, or did Mrs. Robinson have any conversation with you about her sister, or about the insurance, or about the family coming to live with her, on the way over there? A. Yes, sir.

Q. Now, won't you go along slowly and state what she said? A. She said that after her sister was buried she wanted Mr. Freeman and his children to come and live with her. She said that her daughter had taken the children over to her house.

Q. Whose daughter? A. Mrs. Robinson's daughter.

Q. That was Lizzie? A. Yes, sir. And that she was using all her influence to try to have him come and live with her, too. She said that Mrs. Melvin was very anxious to have him with her.

Q. Mrs. Melvin? A. Yes, sir; and she wanted him to come and live with her.

Q. Was anything said about insurance in connection with Mrs. Melvin? A. She said that all Mrs. Melvin wanted was to get his insurance money made over to her. Mrs. Robinson said she had the best right to it, and it was her sister's request that it should be made over to her, and she wanted it. Going over in the carriage she asked her daughter to use all her influence —

Q. You mean her daughter Lizzie, I suppose? A. Yes, sir — for her daughter to use her influence upon her uncle to come and live with her, as she had a great deal of influence over him.

Q. Did Lizzie make any reply to her mother? A. She said she need not worry about that; she would have uncle come all right; he would do anything for her.

Q. After the funeral were you present at Mr. Freeman's house at South Boston at supper? A. Yes, sir.

Q. Who were present? A. I cannot say all that were present, but I know Mrs. Robinson, Lizzie, myself and Mr. Freeman were.

Q. Were any of his folks there? A. I cannot remember; I do not know.

Q. Was there any conversation then about Prince Arthur and the children coming to live with her, and about the insurance? A. Yes. Mrs. Robinson was talking with Mr. Freeman. She was very anxious to have him come as soon as possible to her house, and he said that he would come just as soon as he could get the things at the house all straightened out.

Q. Was anything said about insurance in his presence by Mrs. Robinson? A. She wanted to know if the insurance was made over to her. He said it was not, but it should be as soon as he could get it.

Q. Did she say anything about his folks at the supper table? A. Yes. She said that his mother and his sister were anxious, now they saw that he had insurance, — that they were anxious to have him come to them; but before that they did not care anything about him. She said that he must come and live with her.

Q. Did you hear her afterwards make any talk about the insurance? I mean up to the time Prince Arthur was taken sick, was anything said about insurance? A. Yes, quite often; whenever I went to the house.

Q. What did she say about it? A. She said that she was afraid he would not make the insurance over to her; that he was going over

to his folks every Sunday, and she thought they had a great deal of influence over him, as he had changed considerable; he was not as pleasant at the house, and was not pleasant with her.

Q. Was anything said about his going to church in South Boston?

A. She said he went over to church every Sunday and there met his folks and used to stay all day. She wanted him to have his little boy with him, but he never would take the boy with him.

Q. Did she say anything about why she wanted the boy to go with him? A. She said she might ask him some questions and that he might tell her about things that happened while he was away.

Q. How soon after his wife died was it before Mr. Freeman came over to Cambridge to live with Mrs. Robinson? A. I cannot say. It was a short time.

Q. Within a few days? A. Yes, within a week.

Q. Whereabouts did Mrs. Robinson live at that time in Cambridge?

A. On Hughes Street.

Q. How long did she live there? A. I do not know.

Q. Where did she live when Prince Arthur died? A. On Boylston Street.

Q. She occupied a flat in an apartment house, there being a flat on each story, and she occupied the upper story of the building? A. Yes, sir.

Q. How much did you go there after Prince Arthur went to live with Mrs. Robinson? A. Very often; as much as I ever did.

Q. Almost every day? A. Yes, sir.

Q. Lizzie was your most intimate friend, or one of your most intimate friends? A. Yes, sir.

Q. Did you hear Mrs. Robinson say anything about Prince Arthur Freeman while you were there? When I say "about him," I mean about his capacity to earn a living? A. Yes. After a while she began to talk against him, and said he was a lazy fellow, good-for-nothing, of no use to her, and the little money he had earned he spent in car fare, so that he had not got much, so he was better out of the way than living; she wished he could have died instead of her sister, and she wished some one would give him a dose and put him out of the way.

Q. We will wait until we get to that interview before we come to that. Did she say anything about her getting a place for him at Mt. Auburn to work? A. Yes, sir.

Q. What did she say? A. She said she got him a place to work there in Mt. Auburn, digging or something, but he left it; he was too lazy to attend to it.

Q. How often did you hear her make these remarks about him?

A. Quite often.

Q. What was her conduct towards him in the presence of strangers?
A. Very affectionate.

Q. One evening at the supper table something was said, was there?
A. Yes, sir.

Q. When was that? A. I don't know when it was.

Q. I mean how long before he was taken sick? A. Perhaps two weeks or three weeks.

Q. What time in the evening was it? A. About half-past six.

Q. Who were present? A. Mrs. Robinson, Lizzie and myself.

Q. I wish you would go on and state just what took place. What was said? A. We were at supper, and we were talking about Mr. Freeman and his wife and children, and Mrs. Robinson said that he had changed very much of late and he was going over among his people, and she knew that he was going away from her to live with them. She asked Lizzie if she would talk with him and make him feel more contented and more at home. Lizzie said, Oh, he was all right, that he would stay there. Mrs. Robinson said he was no good any way, and she wished he was out of the way. She wished some one would give him a dose and put him out of the way.

Q. What was said then? A. Then she kind of stopped a minute, then she got real nervous, and looked over her shoulder and we thought she was going to fall. Lizzie said, "What is the matter, mother, has father come to you again?" She said, "Yes, I thought your father tapped me on the shoulder." Lizzie said, "Oh, that is father come for uncle, mother." Her mother said, "Yes, it is. I should not wonder but something would happen to your uncle soon."

Q. After Prince Arthur was taken sick did you hear her make any prediction as to whether he was going to die, other than what you heard that night? A. No, sir.

Q. Did you hear her say on more than one occasion that she wished some one would dose him? A. Yes, sir.

Q. How many times? A. Three or four times.

Q. Now, Miss Clough, were you there on the night when he was taken sick? A. Yes, sir.

Q. That was on what day? A. Monday. He came home Monday, sick. I went there Monday night.

Q. The 22d of June? A. I don't know whether it was that day or not. It was in June.

Q. What time did you go there? A. About seven o'clock.

Q. What did Mrs. Robinson say? A. She met me when I came in and she said Mr. Freeman came home sick that day, vomiting and with a headache, and she said she knew he never would leave the house alive again. She said she told him to go right to bed. And she said, "Belle, he will never leave this house alive again."

Q. Did you see him? A. Yes, sir.

Q. How did he appear? A. He was very sick. He was vomiting, tossing from one side of the bed to the other.

Q. When had you seen him last before that? A. Perhaps the day before, Sunday.

Q. What was the state of his health then? A. It seemed very good, as far as I knew.

Q. Was anything said by Mrs. Robinson or by Mr. Freeman in Mrs. Robinson's presence about how he had been affected that day? You say she said he had been vomiting? A. In the presence of Mr. Freeman?

Q. Was anything said by Mrs. Robinson or Mr. Freeman or anybody else in Mrs. Robinson's presence? A. No, only that she told me before him that he came home vomiting that day.

Q. Did she tell you when he was taken with vomiting? A. He was taken sick at work soon after he left home in the morning.

Q. Did she tell you anything further about the insurance, I mean? A. She asked me if I would go over to Boston with Lizzie that night to Governor Dudley Colony.

Q. That was the Colony of Pilgrim Fathers, of which he was a member? A. Yes, sir; I understood it was. She said she wanted Lizzie to go over and see if all the papers were right in case anything happened to him, whether she would get the insurance, and to see that all assessments were paid up.

Q. Did you go? A. I went over.

Q. Whom did you see? A. We saw the secretary.

Q. What was his name? A. Mr. Wiley.

Q. What was his full name? A. George T. Wiley.

Q. What conversation took place between you and him? A. Not any.

Q. What did you tell him? A. Lizzie spoke to him.

Q. What did Lizzie tell him?

[Objected to.]

MR. STEVENS. I want to show that she went there instructed to deliver a message, and I want to show what that was and the conversation she had.

FIELD, J. She may state anything Mrs. Robinson told her or anything she told Mrs. Robinson.

Q. Well, you had an interview, and when you went back, — did you go back that night to Mrs. Robinson's? A. No, sir.

Q. Did you at any subsequent time have any conversation with Mrs. Robinson about that interview between yourself, Lizzie and Mr. Wiley? A. Yes, sir, the next time I went up.

Q. What was the conversation? A. Lizzie told me that her mother was frightened —

[Objected to.]

Q. Anything that was said in Mrs. Robinson's presence? A. Lizzie said —

Q. (By Mr. GOODRICH.) Was Mrs. Robinson present? A. Yes, sir.

Q. (By Mr. STEVENS.) What did she say? A. She said her mother was feeling very badly and thought she didn't get everything all right that Monday we were over there. Lizzie said, "Mother is worried about it, but I told her I made it all right; everything was all right on the books. Mr. Wiley said so."

Q. Did you go over again in that week? A. We went over to Mrs. Stanwood's.

Q. Did you go to Mr. Wiley's again that week? A. No, sir.

Q. Did you know of Lizzie's having gone? A. I think Lizzie went.

Q. How do you know that? A. Because she told me.

Q. In the presence of Mrs. Robinson? A. I don't know. I think Lizzie wrote to me asking me to go with her, and I did go.

Q. That was during the week? A. Yes, sir.

Q. Now, you say you went there on Monday night? Who else was there when you went there on that night? A. I think that not anybody but Mrs. Robinson and Lizzie.

Q. You did not go back to Mrs. Robinson's when you returned to Cambridge? A. No, sir.

Q. How long were you there? A. That Monday night?

Q. Yes. A. Perhaps an hour.

Q. (By FIELD, J.) I did not get the name of the street where they lived? A. Boylston Street.

Q. In Cambridge? A. At Harvard Square, in Cambridge.

Q. (By Mr. STEVENS.) Were you there on Sunday, the day before? A. I was, I think.

Q. You said he was well then? A. Yes, sir, he seemed to be.

Q. Did Mrs. Robinson say whether or not he had been sick before that Monday morning at all? A. No, sir.

Q. When were you there next after Monday night? A. I cannot say whether I went there during the week or not. I know I was there Saturday night.

Q. Saturday night or Friday night? That is, the night you went for Mrs. Stanwood? A. That was either Thursday night or Friday night.

Q. You don't remember? Well, whom did you see there then? A. I cannot say. I saw some of the neighbors who lived in the house, I don't know who.

Q. Did you see Mrs. Robinson? A. Yes, sir.

Q. Did Mrs. Robinson tell you, — what did she say to you that night? A. Well, she only talked about Mr. Freeman. She said he was very sick and she knew that he would never recover. She said that Lizzie was going over to Mrs. Stanwood's and asked me to go with her.

Q. Did she tell you what for? A. She wanted to see if there were any more assessments due, and if there were, to pay them, and tell Mrs. Stanwood that if any assessments fell due later, to pay them, and she would make it all right.

Q. Tell Mrs. Stanwood to pay them. You were not a member of the Colony and you do not know of any assessment that fell due, I suppose? A. No, sir.

Q. Did she tell you anything else? A. No, sir.

Q. Did you have any conversation with her about who had been taking care of Prince Arthur during his sickness? A. I only knew that she was the only one that took care of him.

MR. GOODRICH. You were asked if you had any conversation with her about it.

Q. (By Mr. STEVENS.) Anything you know from what she told you, and what she told you, you may testify to, or what anybody else said in her presence. A. Mrs. Robinson told me that Mrs. Melvin had taken care of him one night, and during that night she laid down a few minutes, — Mrs. Robinson did, — and she woke and saw that it was time to give him his medicine, and she got up to give it to him: and she said that Mrs. Melvin said, "Why, I have given him his medicine." She said she was very angry because she had done so, and said she told her that no one was to give him his medicine but her. And she said that Mrs. Melvin said she did not know that it made any difference who gave it to him.

Q. When you went over to Mrs. Stanwood's did you say you found her at home? A. Yes, sir.

Q. Did you see her? A. Yes, sir.

Q. Leave any message for her? A. Talked with her, and stayed there quite a while.

Q. Now, about Mrs. Robinson, when were you over there again? This was on Thursday or Friday night when you went to Mrs. Stanwood's? A. I went there again Saturday night.

Q. Was he living? A. Yes, sir.

Q. What was his condition then? A. He was in a very bad condition; he was dying.

Q. What time were you there? A. I went there about seven o'clock, and stayed there all night.

Q. Was Dr. Nichols there, and Dr. Driver? A. Dr. Nichols, I think.

Q. Now, anything that took place while you were there, and any conversation between Dr. Nichols and Prince Arthur in the presence of Mrs. Robinson, — or did you say anything to Dr. Nichols?

A. Mrs. Robinson asked Dr. Nichols to step into the front room. They were there a little while and both came out, and Mrs. Robinson asked me to step to the bedroom door, and I did so. Dr. Nichols went in.

Q. You mean into the bedroom where Prince Arthur was?

A. Yes, sir. Dr. Nichols went over to the bed and told Mr. Freeman that he was a very sick man, but that while there was life there was hope. And he said that, in case anything did happen, he would ask what he wanted done with his child; and he said he wanted the little boy to stay with his aunt Sarah. Mrs. Robinson turned to me and said, "You have heard that, Belle." I said I did. She said, "I wanted to have it all right, so that when he dies I can keep the child, because he says his folks will want to claim him now."

Q. Now, after his death, did you hear her say anything about the insurance or about the boy? A. Yes, sir.

Q. What was it? A. Some time after his death she told me that the insurance was made over to her.

Q. Did she tell you for what purpose? A. To care for the child. She said that she had paid all his bills, and said there was very little left for the boy.

Q. All whose bills? A. Mr. Freeman's bills.

Q. Did she say anything else in connection with that? A. She said she did not know what she was going to do taking care of the boy; there was nothing left for him, and she had him on her hands.

Mr. STEVENS (addressing the court). I don't know that I have any right, under the ruling of your Honors, to go into anything further that was said about the boy, at this stage of the case. It is pretty difficult to put in the case, you see, the evidence see-saws backwards and forwards in such a manner. I don't want to go beyond the ruling of the court, made yesterday, yet I am very much embarrassed by not knowing how to put in the evidence.

FIELD, J. This is all after the death of Freeman?

Mr. STEVENS. This is after the death of Freeman. Now, does your Honor say that I shall put in everything that was said with reference to that boy afterwards?

FIELD, J. I think you can show what she did with the money afterwards; but we think the conversation about the boy after his father's death relates to a distinct subject-matter which we prefer, at some time or other, to consider by itself.

Q. Do you know where Mrs. Robinson kept the medicine during Mr. Freeman's sickness? A. Yes, sir.

Q. Whereabouts? A. Out in the hall. There was a refrigerator out in the hall and she kept it on that.

Q. Now, this tenement that she occupied consisted of a kitchen, three bedrooms and a parlor? A. Yes, sir.

Q. And there was a hall that ran into all the other rooms? A. A long hall.

Q. You say that in this hall was a refrigerator, and that she kept the medicine on the refrigerator? A. Yes, sir.

Q. Did you ever see her doing anything there with the medicine? A. No, sir; only when she mixed the medicine she always went out there to do it.

FIELD, J. We do not restrict you at present from any conversation about the boy before Mr. Freeman's death. You do not understand that we do?

Mr. STEVENS. No, sir, I do not understand that to be so; but the conversations I want to ask about relate to what took place afterwards.

FIELD, J. That relates to a subject that we prefer to consider hereafter. As I intimated, conversation about the boy, before his father's death, you may put in.

Q. You did not hear Mrs. Robinson make any statement about the boy before his father died? Not what was said after his father died, but before his father died? A. No, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) You went to Mrs. Freeman's funeral in South Boston? A. Yes, sir.

Q. Did you go from your home in Cambridge to South Boston? A. Yes, sir.

Q. By the cars or in a carriage? A. By the cars.

Q. And when you say you rode with Mrs. Robinson at the funeral, you mean to say that you rode from Mr. Freeman's house to the cemetery? A. From Mr. Freeman's house to the cemetery.

Q. And back again? A. Yes, sir.

Q. To Mr. Freeman's house? A. Yes, sir.

Q. With whom, do you know, did Prince Arthur Freeman ride? Do you know whom he rode with? A. No, sir; I do not. I think he rode with his mother and sister; I am not sure, though.

Q. Do you know whom Willie Robinson, her son, rode with? A. I cannot say whether Mr. Freeman was in the carriage with us, or Willie Robinson.

Q. But you told us who was in the carriage. Now, you think that Mr. Freeman himself might have been in the carriage with you.

A. I was talking yesterday with a party here, and I could not re-

member. The lady thought that Mr. Freeman was in the carriage with us; I thought Lizzie, Mrs. Robinson, Willie and myself were in the carriage.

Q. You think Willie was in the carriage with you? A. I think so.

Q. Did you tell us that before? A. No, I only said Mrs. Robinson, Lizzie and myself. I was positive about that, but I was not positive that Willie was with us, and I could not say.

Q. You cannot say but what Mr. Freeman rode with you. A. I cannot.

Q. But one thing you can say, that while you were together in the carriage riding, Mrs. Robinson wanted Lizzie to use her influence with Mr. Freeman to induce him to come and live with her?

A. Yes, sir.

Q. Lizzie said that she had influence with him? A. Yes, sir.

Q. And she thought he would come? A. Yes, sir.

Q. And did she ask you to use your influence with him? A. No, sir, I do not think she did.

Q. And that night, at Mr. Freeman's house, the matter of Mr. Freeman and the children coming to live with Mrs. Robinson was again spoken of? A. Yes, sir.

Q. Mr. Freeman was present? A. Yes, sir.

Q. Did he say anything? What was his disposition about going, — did he show any? A. He seemed quite anxious to go.

Q. To Mrs. Robinson's? A. Yes, sir.

Q. And the children were already at Mrs. Robinson's house, were they? A. Yes, sir.

Q. In Mrs. Robinson's presence did Lizzie say anything to you about the baby, — what Mrs. Freeman's desire was with regard to the baby? A. Mrs. Robinson told me that Mrs. Freeman had given the baby to Lizzie.

Q. She wanted Lizzie to take care of the baby? A. Yes, sir.

Q. What reason did she give, if any, why she wanted the children to live with her, and Mr. Freeman to come over there? A. Why Mrs. Robinson wanted him?

Q. Yes. A. So that she might have the insurance money made over to her.

Q. Ah, that was it? She gave no other reason? A. No, sir.

Q. Mrs. Robinson told you that she wanted the children and Mr. Freeman to come over and live with her so that she could get the insurance money? A. Yes, sir; have the insurance money made over to her.

Q. So she could get the money made over to her. Did you make any reply to that? A. No, sir, I do not think I did.

Q. Did she at any time drop any remarks about the children, saying they would be better off with her than with Mrs. Melvin?
A. Yes, sir.

Q. Then why didn't you give that reason when I asked you what reason she gave? Did she give it as a reason? A. I don't know as she did give it then. She spoke of the insurance at one time and of the children at another.

Q. But in speaking of the children going to live with her, — she did speak of the welfare of the children, did she? A. Yes, sir.

Q. And thought they would be better off? A. Yes, sir.

Q. And when I asked you what reason she gave for wishing the children to come you said it was so that the insurance money might be made over to her. Why didn't you give us both reasons at the same time? A. Well, I answered one question.

Q. Half of it. The insurance money was spoken of the day of the funeral, you think? A. Yes, sir.

Q. She said Mrs. Melvin did not care anything about the children until she found that his life was insured, — did she? A. Yes, sir.

Q. Did Mrs. Robinson frequently speak of her desire to have the children come and live with her on account of her anxiety for their welfare? A. No, not particularly. It was about Mr. Freeman's coming there that she spoke very often to me.

Q. Mr. Freeman, you say, showed a disposition at first to come?
A. Yes, sir.

Q. Seemed to want to go? A. Yes, sir.

Q. And I think you said something about his saying it should be made over at once? A. Yes, sir; as soon as possible.

Q. Do you know anything about its being made over at once?
A. No, sir. I do not know when it was made over.

Q. And, after that, the first you knew anything about whether or not it had been made over or not was when Mrs. Robinson asked you, after Mr. Freeman was taken sick, to go with Lizzie over to Boston to the Colony? That is so, is it not? A. Yes, sir.

Q. That was after he was taken sick? A. Yes, sir; that night.

Q. That was the first that you remember of anything being said after the funeral about its actually being made over to Mrs. Robinson? A. But I did not know it was made over then.

Q. When did you know that? A. I don't know when. But quite a number of times when I went up there they were always talking about it, — Mrs. Robinson always spoke to me about it.

Q. Can you give me some idea when it was, — how long before his sickness? A. No, sir, I cannot.

Q. You cannot give any idea? A. No, sir.

Q. Were they talking about its being made over, or whether it was going to be made over? A. That it had been made over.

Q. You are sure about that? A. Yes, sir; I am as sure as far as this, — that Mrs. Robinson told me so. I did not see the paper.

Q. She told you that it had been made over? A. Yes, sir.

Q. You cannot give any idea of how long a time that was before his sickness? A. No, sir, I cannot.

Q. Mr. Freeman and his children came to live with Mrs. Robinson in a few days after the funeral? A. Yes, sir.

Q. Her conduct towards him was always kind and affectionate? A. Yes, sir, when strangers were around.

Q. My inquiry was whether it was always kind and affectionate? A. No, not always.

Q. But always when strangers were around? A. Yes, sir.

Q. Do you know of any one besides yourself that has ever noticed anything but kind and affectionate conduct on her part? A. No, sir.

Q. And towards the children was her conduct the same? A. Yes, sir.

Q. So far as you know, her family, — I mean generally? A. Yes, sir.

Q. How was that, when strangers were around or was that general? A. While strangers were there. She was very unkind to the child, — to the boy.

Q. She thought that he was going too much over to see his sister and mother? A. Yes, sir.

Q. She seemed to be unwilling, or, rather, she seemed to object to his visiting them so much? A. Yes, sir.

Q. You never knew, then, of her urging him to go over to see them? A. No, sir.

Q. Did Mr. Freeman and Mrs. Robinson attend the same church after he came to live with her? A. I think not.

Q. Where did she attend? A. She attended in West Somerville — when she used to live on Boylston Street?

Q. Yes. A. I think she attended the North Avenue Methodist Church.

Q. Where did he attend church? A. He generally went over to South Boston every Sunday.

Q. To his own church? A. Yes, sir.

Q. At this time of whom did the family consist, after Mr. Freeman came there to live with Mrs. Robinson? A. Mrs. Robinson, Lizzie, Willie, Charlie, Gracie and Mr. Freeman and his two children.

Q. What was Willie doing at that time? A. I think he was working for Mr. Holmes, a hay and grain dealer.

Q. Where was Mr. Freeman working? A. In South Boston, I believe.

Q. Do you know at what place in South Boston? A. No, sir.

Q. Do you know what his business was? A. No, sir. Mrs. Robinson said it had something to do with vitriol, that was all. I did not know.

Q. Working upon vitriol? A. On vitriol, in South Boston.

Q. You say Mrs. Robinson complained one night at the supper table that he was going to give the whole money to his own people? A. Yes, sir.

Q. Did you notice in Mr. Freeman's conduct any alienation of feeling from Mrs. Robinson? A. Any what?

Q. Any alienation of feeling? Did he seem to be on good terms, friendly? A. Yes, sir.

Q. Lizzie, you say, said one night to her mother, in response to some suggestion of the mother, that that was father that had come for Mr. Freeman? A. Yes, sir.

Q. Lizzie said that to her mother? A. Yes, sir; "as he had often done before," she said.

Q. Said that? A. Yes, sir. Mrs. Robinson often felt him touch her on the shoulder whenever any one was called away, — soon after he died.

Q. Mrs. Robinson was not what is called a spiritualist, was she? A. No, sir. She always told me she did not believe in it.

Q. She was pretty regular and constant in her attendance at church? A. Yes, sir.

Q. At Sunday-school? A. Yes, sir.

Q. At prayer meeting? A. Yes, sir.

Q. Have family prayers at the house, as a rule? A. Yes, sir.

Q. Morning and night? A. No, sir.

Q. When? A. Sometimes in the evening when parties were there.

Q. All the family together at such times? A. No, sir.

Q. All who were in the house? A. Yes, sir; at certain times, not every time.

Q. Reading of the Scriptures? A. No, sir.

Q. Always a blessing asked at the table at meals? A. Yes, sir.

Q. Whether there were any strangers there or not? A. Yes, sir.

Q. That was the rule of the household, was it? A. Yes, sir.

Q. Mrs. Robinson's rule? A. Yes, sir.

Q. She took part in it? A. Yes, sir.

Q. In these devotional exercises? A. Yes, sir.

Q. Had that always been her custom? A. Always, as long as I know.

Q. Continued after the death of Mr. Freeman? A. Yes, sir.

Q. Where was Charlie Robinson working at this time? A. I don't think I remember.

Q. Was he working at a bookstore in Boston, do you remember? A. Perhaps it was there.

Q. At the bookstore of Cupples & Upham? A. Yes, sir.

Q. Tell us something about the visitors who were in the habit of coming to Mrs. Robinson's house after Mr. Freeman came there to board. Do you know Dr. Charles C. Beers? A. Yes, sir.

Q. Was he there a good deal? A. Yes, sir.

Q. How often was he there? A. Quite often.

Q. Give us the best idea that you can of the frequency of his visits. How often should you say he was there? You yourself were there almost every day; now, as compared with that, how often was he there? A. About every day.

Q. Did that continue from the time that Mr. Freeman came to Mrs. Robinson's house until his death? A. Yes, sir.

Q. About the same? A. Yes, sir.

Q. Was he there during the sickness of Mr. Freeman? A. Yes, sir.

Q. Every day? A. Yes, sir. Well, during Mr. Freeman's sickness I was not there every day, but I heard of his being there.

Q. But every day that you were there he was there? A. Yes, sir.

Q. Who was Dr. Beers? Tell us what you know about him.

Mr. STEVENS. Wait a moment. Do I understand her to say that she herself saw Dr. Beers?

Mr. GOODRICH. She said she saw him every day that she was there.

The WITNESS. When I was there Monday night I did not see him, but I was told that he was there that day.

Q. And every other time that you were there during his sickness he was there? A. Yes, sir.

Q. You saw him there every time that you were there? A. No, sir; I didn't see him.

Q. With the exception of Monday night? A. No; I only saw him there the day of the funeral myself, but I heard about him being there; they told me that he was there.

Mr. STEVENS. I thought there was some misunderstanding about it.

Q. But generally after the Freemans came there Dr. Beers was there almost every day? A. Yes, sir.

Mr. WATERMAN. That she does not know.

Q. You were there almost every day? A. Not while Mr. Freeman was sick; I was there only three times.

Q. Did you yourself have frequent conversations with Dr. Beers?
A. Yes, sir.

Q. Did you understand that he was a married man or a single man?
A. A single man, — a widower.

Q. Did he so represent himself to you?
A. Yes, sir.

Q. So understood by the family?
A. Yes, sir.

Q. That was the understanding during the whole time Mr. Freeman stayed at Mrs. Robinson's?
A. Yes, sir.

Q. Did you know of Dr. Beers at any time during that time making love to Mrs. Robinson?
A. Yes, sir.

Q. Tell us what you observed in that respect?
A. That he thought a great deal of her, and wanted her to become his wife.

Q. Did he tell you so?
A. He did.

Q. At Mrs. Robinson's house?
A. Yes, sir.

Q. How long should you think that was before Mr. Freeman's death?
A. Three or four years; about three years.

Q. That was before Freeman came there at all?
A. Yes, sir.

Q. And after Mr. Freeman came there, was his conduct towards Mrs. Robinson the same as before?
A. Yes, sir. Dr. Beers, you refer to?

Q. Yes; I referred to Dr. Beers. And did you notice at any time any demonstrations of affection on his part towards Mrs. Robinson?
A. Yes, sir.

Q. What were they?
A. He was affectionate toward her.

Q. What were the manifestations of that affection?
A. He was always telling me how much he thought of her; that he wanted her to marry him and she would not.

Q. She would not, he said? Whether he repeated that to you at different times?
A. Yes, sir.

Q. And during the time that Mr. Freeman lived there, did he make these same declarations to you during that time?
A. I think so.

Q. He told you that he loved her?
A. Yes, sir.

Q. That he desired to marry her?
A. Yes, sir.

Q. And, so far as you noticed, his conduct and actions were consistent with that feeling and sentiment?
A. Yes, sir.

Q. Did he represent himself to you as being a physician?
A. He said that he had practised in years gone by, but he didn't then, very much; a little, he did, but not much.

Q. I think you said you went on Monday night to Mrs. Robinson's house, before Mr. Freeman's death?
A. Yes, sir.

Q. Mrs. Robinson asked you to go with Lizzie to see Mrs. Stanwood?
A. No, sir; that was to Mr. Wiley, the secretary.

Q. That was the first night you went there?
A. Yes, sir.

Q. And afterwards Mrs. Robinson wanted you to go —
A. To Mrs. Stanwood's.

Q. To see Mrs. Stanwood? A. Yes, sir.

Q. Do you remember what night that was? A. It was either Thursday or Friday night; I cannot say which.

Q. Either Thursday or Friday night? A. Yes, sir.

Q. And he died on Saturday night? A. Yes, sir.

Q. Either on Thursday night or Friday night you went to see Mrs. Stanwood? A. Yes, sir.

Q. And you found her at home? A. Yes, sir.

Q. And you had a conversation with her? A. Yes, sir.

Q. And about what? You need not state what the conversation was, but the subject of it? A. About Mr. Freeman's assessments, if they were all paid up. Lizzie asked her if any fell due to pay them.

Q. Did you hear Mrs. Stanwood's reply, — response to what was said? A. She said that everything was all right, if anything happened her mother would get the insurance all right.

Q. Did she say whether the assessments were all paid up or not? A. I think she said that she had paid one or would pay one, or something. I don't know whether there was one due, but there was something about one not being paid, that she had paid, I think.

Q. And you went back to report your conversation to Mrs. Robinson? A. No, sir, I did not go back.

Q. You did not go back at all. That was the only time you saw Mrs. Stanwood until after the death of Mr. Freeman? A. Yes, sir, I think it was.

FLORENCE A. STANWOOD — *sworn*.

Q. (By Mr. STEVENS.) What is your name? A. Florence A. Stanwood.

Q. Where did you reside in 1885? A. 19 Waltham Street, Boston, Mass.

Q. Did you know Prince Arthur Freeman? A. Yes, sir.

Q. How long had you known him? A. Well, I could not tell just the time, but from the time he entered the Colony.

Q. That is, you were both members of the same Colony? A. Yes, sir.

Q. Was he an officer in the Colony? A. At the time of his death he was inside sentinel.

Q. Were you an officer there? A. Yes, sir.

Q. What was your office? A. Collector.

Q. Did you know of his life being insured? A. Yes, sir.

Q. For two thousand dollars? A. Yes, sir.

Q. Where did you first meet the defendant, Sarah Jane Robinson, and when? A. At 54 Boylston Street, Cambridge.

Q. When was it? A. The day before Mr. Freeman died, or the Friday before he died.

Q. What time in the day was it? A. I should say between three and four o'clock.

Q. In the afternoon? A. It was afternoon, yes, sir.

Q. How did you happen to go there? A. Belle Clough and Lizzie Robinson came over to my husband's store the evening before and said that Mr. Freeman was sick.

Q. (By Mr. GOODRICH.) One moment. How do you know? A. My husband came home and told me. Because Mrs. Robinson wanted me to go there.

Q. (By Mr. STEVENS.) You may state what was said when you went there. A. I went to the door and knocked. Mrs. Robinson came to the door. I introduced myself. She asked me into the parlor. I went in, told her I had heard Mr. Freeman was sick and asked how he was. She said that he was very sick, and she did not think he would ever get well. I asked her what was the matter, and she said it was blood poisoning. I asked her what occasioned it, and she said his work. I asked her what he done, and she said he pickled iron.

Q. Pickled iron? A. Pickled iron; yes, sir. I asked her about how he was situated, and spoke of his assessments and dues.

Q. What did she say? A. She said they were in very poor circumstances; that Mr. Freeman earned very small wages; that oftentimes he walked from the Providence Depot to South Boston to his work, and from his work to the Providence Depot, and then rode from there to his home in Cambridge. She said that when he was taken sick he had about fifty cents to his name. She said she had often taken food, or taken money that should have supplied food for her table, to keep up his assessments and dues. I asked her if it would relieve him any if his assessments and dues were paid. He was then in arrears for his dues.

Q. How much? A. Seventy-five cents in arrears, and there was another one due. She said it would relieve him.

Q. How long time do they have to pay these assessments that are overdue? A. They are called the 1st of the month, and they have until the 10th of the following month to pay them in.

Q. Now, this was the twenty-sixth day of June. Were there any overdue assessments at that time? A. No, sir; there were none ever allowed to be overdue.

Q. Then what assessments were those that you were talking about? A. The one that was called the 1st of June.

Q. Which she had until the 10th of July to pay? A. Yes, sir.

Q. Now, there was seventy-five cents, and you said something

about something else, what was it? A. There was a dollar and a half I paid for his dues.

Q. You mean you paid those? A. Yes, sir; and his assessments.

Q. Go on and state the conversation. A. I took out the receipts and receipted them. She asked if I would like to see Mr. Freeman, and I said yes. She took me into his bedroom; I shook hands with him, and asked him how he felt. He said he was very sick. He began to retch and vomit, and he asked her if she could not do something to relieve the pain and distress in his stomach. She left the room, and while she was gone he began to vomit, and I held his head. She came back with some cracked ice and gave it to him.

Q. When she returned what was said? A. I asked him, — spoke to him about his assessments and dues, and handed him the receipts that I had held in my hand all the time. I don't know whether he took the receipts or asked me to hand them to her, but I left them at the house. I told her that I done it of my own free will, knowing that the Colony would sustain my action in doing it.

Q. Now, was anything said about the assignment? A. Spoke of the insurance, and I told him that he need not worry; that it would be all right; that the papers were sure to be all right.

Q. Was this conversation with him or with both? A. With both.

Q. Did you tell him the reason why it would be all right? A. I told him they would be; that we had heard from the supreme secretary only the Monday before that the papers were all right.

Q. Was anything further said? A. I asked her who took care of Mr. Freeman, and she said nobody but herself and Lizzie. Lizzie just then stepped into the doorway, and was introduced to me. I asked her if there was anybody going to sit up with him that night, and she said no. I told her we were going to have the auditing committee at my house that night, and if we got through in time I would come there and sit up with him. Mr. Freeman spoke and said, "No." He said, "The committees never get through very early and it would be very late for you to come here." I then said I would try to come over Saturday night. He said, "No, you never get through with your books until it is very late, and you could not get over here until twelve o'clock." She asked me if I thought Dr. Cutler, our supreme medical examiner, would come over and see him. I told her he would come on a friendly visit, but I hardly thought he would come professionally.

Q. Was anything said about Mrs. Melvin? A. After we left Mr. Freeman we went into the parlor, and she spoke then about the insurance and asked me not to tell Mrs. Melvin. She said that Mrs. Melvin was Mr. Freeman's sister, and that as soon as there was

some money coming she would want to take care of the children for the sake of the money. "And," she said, "you know that two thousand dollars won't support a child until he grows up to be of age." I told her I would say nothing, that it was none of my business, and I should say nothing to Mrs. Melvin.

Q. Did she tell you anything about how Mr. Freeman had been taken sick? A. Yes, sir.

Q. What did she tell you? A. She told me that he went to work as usual Monday morning, that he told her he would come home early, as it was his lodge night, and that he was going to the lodge. She said that he was taken sick vomiting.

Q. Told you that he was taken sick vomiting? A. I would not be positive; no, sir, I don't think she did.

Q. Go on. A. She said that he came home, I think, about four o'clock in the afternoon. She told him to go to bed, and he hadn't been up since. I asked her what nourishment he took, and she said that he could keep nothing on his stomach but lime water and milk.

Q. Did she tell you when she first thought he was going to die? A. She said she never thought from the first that he would get well.

Q. Did she tell you why? A. No, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) Then the reason of your going to see Mrs. Robinson was that you were sent for? A. Yes, sir.

Q. To go and see her? The message to you was that Mrs. Robinson desired to see you? A. That Mr. Freeman was sick.

Q. Which was it? A. That Mr. Freeman was sick.

Q. Then did you know that Mrs. Robinson desired to see you? It was simply a notice that Mr. Freeman was sick? A. I am quite positive that she wanted me to come over; I would not swear to that.

Q. But at all events, as it lies in your mind, it was a notification? Word was sent to you that Mr. Freeman was sick, and he was an officer in your lodge? A. Yes, sir.

Q. And that was communicated to you by your husband? A. Yes, sir.

Q. You had not had any interview with Miss Belle Clough? A. No, sir; I never had met her.

Q. Never had seen her? A. Never had seen her.

Q. You heard her testify just now that she had an interview with you? A. Yes, sir. There is a mistake somewhere, because I never met them, never met any of them but Mr. Freeman.

Q. And never had seen Mrs. Robinson? A. Never had seen her until I introduced myself the Friday before Mr. Freeman died. I never had seen the lady.

Q. Or Miss Clough? A. Or Miss Clough.

Q. Was the message, as you had it, from Mr. Freeman? A. I could not say.

Q. You could not say whether it was or not? A. No, sir. I was always interested in Mr. Freeman, because I knew he had a hard time, and oftentimes I had helped him with his assessments.

Q. When you arrived at the house and had a conversation with Mr. Freeman was there anything said then as to whether or not he had sent you word to come and see him? A. I think the remark that he made when I went in was, "I am glad you have come."

Q. And you addressed Mrs. Robinson, you say, when you went in, with the words "I am Mrs. Stanwood —" A. "The collector of the Colony." Yes, sir.

Q. And so far as you remember you had received no notice or information that Mrs. Robinson desired to see you? A. Not particularly Mrs. Robinson, I would not say it was Mrs. Robinson sent for me. I know that Lizzie and Miss Clough came over.

Q. Came over where? A. To my husband's store, the Thursday night before, just before he closed up.

Q. You were not there? A. No, sir.

Q. Where is his store? A. He was at that time at the corner of Shawmut Avenue and Garland Street.

Q. In Boston? A. Yes, sir.

Q. Where were you? A. I was at home.

Q. Where? A. On Waltham Street.

Q. Was that the only time that you were at Mrs. Robinson's house? A. Oh, no, sir; I was there afterwards.

Q. When Mrs. Robinson asked you if the insurance was all right? A. Yes, sir.

Q. I wish you would state to the jury as nearly as you can the language, and if not, the substance of it, of Mrs. Robinson in regard to the insurance. What did she say to you? A. At that time?

Q. Yes, when you called. A. I asked her about his assessments, and then she spoke of the insurance. She said that he was very much worried about it; and I told her that it was all right, there was no fear about it at all; there was no doubt but what she could get the money. And she told me then that it was left to her to take care of little Arthur. And she said, "You know that two thousand dollars won't go very far in taking care of a child from his age until the time he is twenty-one."

Q. Was this at that interview or at a subsequent visit? A. That was at that time before Mr. Freeman died.

Q. You had some subsequent visits? A. No, sir; I had never seen her.

Q. After that you went there? A. Yes, sir.

Q. And then this matter was spoken of, — the insurance? A. Repeatedly; yes, sir. And she sent to me repeatedly about it.

Q. In those subsequent interviews did she speak of the insufficiency of this two thousand dollars to take care of the child, or anything of the sort, and paying his debts? A. No, sir; not that I remember of.

Q. But on these subsequent occasions, when you visited Mrs. Robinson, the matter of insurance was frequently discussed? A. Yes, sir.

Q. And all these interviews were after Mr. Freeman's death, with the exception of the one you spoke of? A. Yes, sir.

Q. And on that occasion she spoke of the Order Mr. Freeman was expressly interested in, and asked if the insurance was all right? A. After I spoke to him about it.

Q. And she also? A. Yes, sir. She leaned over and whispered something to him and he said, "Don't bother me now, it will be all right."

Q. "It will be all right"? A. Yes, sir.

Q. Did you know at that time that the insurance had been transferred to Mrs. Robinson? A. Yes, sir.

Q. How long before that had you heard of it? A. I could not tell, because I know it was done at one of the meetings of the Order, because Mr. Freeman came to me and told me so.

Q. When did you first hear of it? A. At the time; I think it was the very night that he changed it.

Q. How long was that before his sickness? A. I don't know whether it was a month or six weeks.

Q. Have you said at any time that you had heard that it had been changed only a day or two before? A. No, sir. I said I heard that the papers were all right a day or two before.

Q. That is what you said? A. Yes, sir.

Q. That a day or two before you had heard that the transfer had been made, and that it was all right? A. I heard that the papers were all right. There was some delay about the papers, and that is what made them so worried. And I heard Monday night that it was all right, that there could be no possible chance but what she would get the money.

Q. So far as you know, Mr. Freeman until he saw you was not aware of the fact that it was all right? A. Well, he was worried. I do not know that he had any official notice that it was all right. But in all the papers that are changed there is no possible chance but what it is all right.

Q. And Mrs. Robinson said nothing to indicate that she knew

that it was all right, did she? A. Well, I don't know. She seemed very anxious to know whether it was all right or not.

Q. Was there any language used there on that occasion to indicate that there had been any change whatever in the insurance?

A. Yes, she knew. She spoke of its being made over by Mr. Freeman to her.

Q. Now, did she? A. Yes, sir.

Q. You have been asked a good many times to state what she said, and you haven't yet stated anything that she said. What did she say? A. She said that the certificate had been made over from Mrs. Freeman to her to take care of little Arthur.

Q. You knew that it had been made over? A. Yes, sir.

Q. Why did she say that? A. The same as she told me a great many other things.

Q. You knew it? A. Yes, sir.

Q. You are sure you didn't tell her so? A. I am sure I didn't tell her so until she spoke of the insurance first.

Q. Mr. Freeman himself was quite anxious, wasn't he? A. Mr. Freeman didn't have much to say any way; he was too sick.

Q. But he said it would be a great relief to him to know that the assessments were paid? A. Yes, sir.

Q. These assessments amounted to seventy-five cents each? A. No, sir; the assessments were one dollar and fifteen cents each,—that is, his were.

Q. How frequently did these assessments come? A. Sometimes they came once a month, and sometimes there are only eleven in a year.

Q. About one dollar and fifteen cents each? A. Yes, sir; his were.

Q. This Order of the Pilgrim Fathers, its principal objects are of a social nature? A. Social and insurance. It is a fraternal order.

Q. There is an insurance benefit connected with it? Do you have regular lodge meetings? A. Yes, sir.

Q. Of what do the exercises consist? A. Order of business and the good of the Order.

Q. What is the good of the Order, generally? A. Sometimes it is literary, sometimes it is musical, sometimes dancing, and sometimes all three combined.

Q. Entertainments, then? A. Yes, sir.

Q. And these entertainments occur, generally, at what you call the lodge meeting? A. Not always. Sometimes there is so much business we cannot have any entertainment for the benefit of the Order.

Q. After the business is disposed of that kind of entertainment is always in order? A. Yes, sir; to a certain extent.

Q. Generally, then, the meetings of the Order partake of this social nature you have spoken of? A. Yes, sir.

Q. That constitutes, so far as you are concerned, the principal attraction of the Order? A. No, sir; I think the insurance is the principal attraction.

Q. About how frequently are the lodge meetings held? A. Our meetings are held the second and fourth Mondays in every month.

Q. Then twice every month this organization provides an entertainment, speaking as a rule? A. Yes, sir.

Q. Mr. Freeman generally attended those? A. Well, Mr. Freeman was not a very constant attendant until the last; then he was an officer, and he attended.

Q. You had no occasion, I suppose, to refer to your interviews with Mrs. Robinson at different times, or to repeat them to any one for a long time after Mr. Freeman's death, had you, so far as you remember? A. I don't think I should care to tell all my conversation about Mrs. Robinson.

Q. I asked you if you had had occasion to repeat the conversations that you had with Mrs. Robinson; if you had had any occasion to repeat them for some time after Mr. Freeman's death? A. Only as I have spoken of them to my husband.

Q. There were two quarterly dues of seventy five cents each? A. Yes, sir.

Q. Besides the one dollar and fifteen cents? A. Yes, sir.

Q. You said you would pay those yourself? A. Yes, sir.

Q. (By FIELD, J.) Were the quarterly dues of seventy-five cents in addition to the assessments? A. Yes, sir.

Q. That is, by quarterly dues you mean dues payable four times a year? A. Yes, sir.

Q. (By Mr. GOODRICH.) Mrs. Robinson asked you if you thought Dr. Cutler would come? A. Yes, sir.

Q. She was not a member of the Order, was she? A. No, sir.

Q. Dr. Cutler was the medical examiner of the Order? A. Yes, sir; of our Colony.

Q. Do you know why she wanted Dr. Cutler to come? A. No, I do not.

Q. Did she say anything to indicate why she desired that he should come? A. No, sir.

Q. Did you consider, from what she said, that she wanted to see him professionally? A. No, sir.

Q. Well, she didn't know Dr. Cutler, did she? A. No, sir; but she knew about him.

Q. That he was the medical examiner of the Colony? A. Yes, sir.

Q. And she desired that he should be notified? A. No, sir; she spoke of him as she did of considerable many other members.

Q. Well, at all events, she suggested it would be desirable for him to come? A. She spoke of Dr. Cutler; yes, sir.

Q. She spoke to you first about Dr. Cutler, or did you speak to her about him? A. I would not be positive. I know the name was spoken.

Q. What did you say when she asked you if you thought he would visit her? A. I told her I thought he would call in a friendly way, but that he would hardly call professionally.

Q. Then you spoke of his calling professionally? A. I spoke in that way; yes, sir.

Q. You gave your deposition in this case in anticipation of your absence at this trial, did you not? A. Yes, sir.

Q. You remember of subscribing and swearing to a statement? A. Yes, sir.

Q. You were asked whether or not Mrs. Robinson had any conversation with you about the assignment of the benefit of Prince Arthur's insurance to her? A. Yes, sir.

Q. Now, in your answer to that, did you make any allusion whatever to any conversation about two thousand dollars, or to its sufficiency or insufficiency to support the children or the child? A. I could not say whether I did or not.

Mr. STEVENS. To which answer do you refer?

Mr. GOODRICH. It is the answer to the sixteenth interrogatory. Let me see if I cannot refresh your recollection.

Mr. STEVENS. Read it, if you want to.

Q. Was your answer to that inquiry, "She asked me if I was sure that the insurance was changed so that it would be all right. I said there would be no difficulty, as we had heard only a day or two before that the insurance was changed. There had been some talk about it, and there would be no doubt but that they would get the money all right. She then asked me to be sure and not tell Mrs. Melvin, his sister, about the insurance being made over, and I believe I said I would not, as it was none of my business." That was the whole of your answer? A. As far as I remember now.

Q. And as far as you remembered at that time that was the whole of your conversation, or the substance of the whole of your conversation with Mrs. Robinson about the assignment? A. As near as I can remember; yes, sir.

Q. In the course of your deposition at that time do you remember in making any allusion whatever to any conversation with Mrs. Robinson in regard to the use which has to be made of the proceeds of the insurance? A. No, sir; I do not think I did.

Q. You did not recollect it, perhaps, at that time? A. No, sir.

Q. What do you say, — how frequently were you at Mrs. Robinson's house after the death of Mr. Freeman? A. Well, I do not think I was in Mrs. Robinson's house more than three or four times after Mr. Freeman's death.

Q. You went there and spent the afternoon once? A. Yes, sir.

Q. Was Dr. Beers there at that time? A. He was there the first time I called, the Friday before Mr. Freeman died.

Q. Was he there when you went? A. When I went?

Q. When you arrived? A. He was there when I went.

Q. Was he there when you went away? A. No, sir, not in the room. After I left the parlor to go into Mr. Freeman's room I do not think I saw Dr. Beers afterwards.

Q. And after that did you see him there? A. Not until the time I went to see Lizzie.

Q. You saw him there subsequent to Mr. Freeman's death? A. Yes, sir. Subsequent to Mr. Freeman's death? Not until I went to see Lizzie.

Q. Were you introduced to Dr. Beers? A. I was; yes, sir.

Q. Who introduced you? A. Mrs. Robinson.

Q. Did you have any conversation with him? A. No, sir; nothing only about the Order. I think he spoke something about the Order, the insurance.

Q. He said something about the insurance? A. I think so. I think he asked me what the Order constituted.

Q. And he spoke to you about Freeman's insurance? A. No, sir.

Q. But about insurance in general? A. Because he saw me take out and receipt the receipts.

Q. Did he speak of it? A. I do not think he did, only as asking me about the Order.

Q. About the insurance features of the Order? A. Not the insurance features particularly, only as an insurance Order.

Q. Discussing the advantages generally of such an Order? A. I do not think I had five minutes conversation with him in all.

Q. But during the time he did speak of the insurance features of the Order? A. Just as an insurance Order. He asked no question whatever as to insurance, only just if it was an insurance Order.

Q. He referred to it as such? A. He asked me what the receipts were, and I told him, after he heard the conversation between Mrs. Robinson and I.

FIELD, J. You do not understand, Mr. Stevens, that we restrict you to conversations with Mrs. Robinson before the death of Mr. Freeman in regard to the insurance?

Mr. STEVENS. No.

FIELD, J. I did not know, judging from the nature of your examination. Of course, you can go into any conversation she had about it, or anything she did about it, both before and after.

Mr. STEVENS. I understood that. I forgot to ask her one question.

Q. (By Mr. STEVENS.) You had some conversation with Mrs. Robinson after the death of Mr. Freeman in reference to his insurance? A. Yes, sir.

Q. About when it would be paid? A. Yes, sir.

Q. And you said you had frequently received messages from her? A. Lizzie and Miss Clough came to my house probably every week afterwards.

Q. Now, if you can recall any conversation you had with Mrs. Robinson about when she would get her money, please state it. A. I think I had that conversation with Lizzie.

Q. Did you have any conversation at any time with Mrs. Robinson when there was any reference made to Moses Robinson, her husband? A. Yes, sir.

Q. What was that? A. About his insurance.

Q. When?

[Objected to.]

Q. Was the conversation there in connection with Moses about this insurance of Freeman? A. Yes, sir.

Q. Then I ask you to state what it was.

[Objected to.]

FIELD, J. We do not know until we hear what the conversation was.

Mr. GOODRICH. He is asking for a specific conversation about Moses Robinson.

FIELD, J. I do not see how any conversation specifically about him would be competent.

Mr. STEVENS. I am not asking to put that in; I am trying to refresh her memory by calling attention to the time when Mr. Robinson's insurance was referred to. Then I mean to ask for the whole conversation.

FIELD, J. So far as it relates to Freeman it is competent.

Q. You can go on. A. Speaking of getting the insurance she said she didn't believe she would ever get the money; that she never had got any money from an insurance order, and she didn't believe she would get his.

Q. (By FIELD, J.) Whose? A. Mr. Freeman's.

Q. (By Mr. STEVENS.) What else did she say, if anything, about Moses in connection with that? A. She said she didn't get his, and she didn't believe she would get Mr. Freeman's.

Q. (By KNOWLTON, J.) How long had Mr. Freeman had this in-

surance? A. I should judge some three years; I could not tell just how long he had been a member of the Colony.

GEORGE T. WILEY — *sworn*.

Q. (By Mr. STEVENS.) You are a member of the Governor Dudley Colony of the Order of Pilgrim Fathers? A. Yes, sir.

Q. What office do you hold? A. Secretary.

Q. Do you remember when Freeman died? A. He died June 27.

Q. Do you remember that on Monday night before he died Belle Clough and Lizzie Robinson came over to make inquiry about the insurance? A. I do.

Q. Do you remember of Lizzie coming again in the week to inquire about the insurance? A. I do.

Q. When was that? A. It was during the week.

Q. How many times? A. I think once — Wednesday night, I think.

Q. Do you know, — I do not suppose you do know, and if it is objected to you need not answer, — do you know when the policy was assigned to Mrs. Robinson?

Mr. GOODRICH. We had better have the records, I think, on that. It would only be assigned by record.

Mr. WATERMAN. He knows the fact it was assigned, that is all.

CHARLES F. CHANDLER — *sworn*.

Q. (By Mr. STEVENS.) Where do you live? A. Winter Hill, Somerville.

Q. How long have you known Mrs. Robinson? A. I guess it is about five or six years; probably longer.

Q. About the time that Freeman was there were you accustomed to go to the house very much? A. I used to go there quite often, sir.

Q. How often? A. Probably three or four times a week; probably more and probably less, just as I felt like it.

Q. Before Freeman was taken sick did you hear Mrs. Robinson say anything about him?

Q. (By Mr. WATERMAN.) You say while Freeman was "there." What do you mean by "there?" A. At Mrs. Robinson's.

Q. Where? A. On Boylston Street.

Q. Not at Somerville? A. No, sir.

Q. (By Mr. STEVENS.) Mr. Freeman never lived in Somerville? A. No, sir; not to my knowledge.

Q. Did you have any talk, or hear Mrs. Robinson say anything about Freeman while he was living with her? A. Yes, sir.

Q. What did she say? A. She said that he was good for nothing, better dead than alive. She said she got him a job at Mt. Auburn, but he would not stay there; he would rather go over to South Boston at six dollars a week, and spend most of his money for car fare.

Q. How many times did you ever hear her say so? A. It might have been a couple of times.

Q. Before Freeman died did you hear her say anything about little Arthur? A. Before his father died?

Q. Yes. A. I heard her say —

[Objected to and question withdrawn.]

Q. Anything else did she say about Freeman? Did she say anything about his wanting to leave and go to South Boston to live? A. When his wife died, and the little children were brought over there, she told me that she was going to get Lizzie to use her influence to have the father come there and live with her.

Q. Did you hear her say anything about insurance? A. Not until the evening he was sick, the Monday evening.

Q. What did she say then? A. I went up there and she told me that she had sent Lizzie and Miss Clough over to see if Mr. Freeman's papers were all right; as she had so much trouble about Moses', she didn't want any trouble about this.

Q. What else did she say? Did she say anything about the insurance being made over to her? A. Not until after.

Q. When was that? A. That was, I believe, Wednesday evening, when I was up there again.

Q. We will confine ourselves now, as we go along, to this Monday evening. What did she say then? Did she say anything about whether Freeman was going to get well or not? A. Oh, yes.

Q. What did she say? A. She said that Freeman would never get well again. I asked her how she knew, and she said she dreamt it.

Q. How did Freeman appear when you saw him? A. He appeared to be a very sick man.

Q. How? A. Why, he was vomiting and complaining of pains in his stomach, and he said he would be all right, but she said no, that it would be some time before he was well again.

Q. Did he tell you how he was taken, in the presence of Mrs. Robinson, or did she tell you? A. In his presence?

Q. Yes, in her presence? A. Well, she told me that he was taken sick over in the city.

Q. Anything else said on that night, that you remember? A. I don't remember as there was.

Q. Did you go over again? A. Yes, sir.

Q. When was that? A. Wednesday evening.

Q. What occurred then? A. She said she was tired out. I asked her if there was any one to stay with him, and she said no. I told her I would stay with him.

Q. Did you spend the night with him? Q. Yes, sir.

Q. What was his condition that night? A. Well, he was, -- I think he was about the same.

Q. How was he the next morning, Thursday morning? A. He said he felt pretty fair.

Q. Did you have any talk with Mrs. Robinson about him, or the insurance, or about his going to die? A. Well, Wednesday evening, when I went up there, she said the doctor had ordered him a hot bath, and she asked me if I would give it to him; I told her I would, and I did. And the next time I went up she told me I had fixed Freeman. I asked her why, and she told me I had scalded him to death. I told her I didn't think I had. "Well," said she, "you have."

Q. Did you ever have a talk with Freeman about it in her presence? A. Yes, sir.

Q. What was it? A. This was the next time that I went up. It was Wednesday evening I had given him the hot bath and stayed over that night, giving him the medicine and the stuff that Mrs. Robinson told me to give him.

Q. When was it that you went the next time? A. This was Friday.

Q. What was said Friday? A. That was when she told me about the bath. I went in, and she went in with me. I asked him how he felt. He said he didn't feel any better. Said he, "But I will get around all right." Said I, "Mrs. Robinson said I fixed you with a hot bath." Said he, "I guess you didn't." Said he, "I am all right, or I will be in a few days."

Q. What else did Mrs. Robinson say, anything? A. No; she made some passing remark, and we left the room.

Q. Did she say anything more about his dying or about the insurance? A. She did not mention the insurance to me, only the time I spoke of where she said she had so much trouble in getting the insurance on the life of her husband; not until after his death, and then she mentioned the insurance.

Q. What did she say then? A. She told me it was made over to her to take care of Arthur.

Q. Is that all? A. I believe that is all, sir.

Q. You never heard her say anything about it, you say, until after Freeman was dead? A. About it being made over to her to take care of him.

Q. Never heard her say anything about it until after his death?
A. Yes.

Q. What? A. She said the evening she sent Miss Clough over with Lizzie that she had so much trouble about Moses' she didn't want to have any trouble with this.

Q. Yes; you stated that. Anything else? A. And after his death she told me it was made over to her to take care of the little boy.

Q. Did you ever have any talk with Mrs. Robinson? Mrs. Robinson told you she had dreamed a dream; did she tell you anything else about it? Did she give you the particulars? A. Somebody had come — I believe it was his wife that came — and told her that Freeman was not going to live.

Q. Afterwards, at any other time or before that, did you have any conversation with her about any dreams? A. I had a conversation with her about dreams when the others of the family died.

Q. What was it? A. She would say that she dreamed so and so, and believed that one of them was going to be sick, and all stuff like that; I cannot just say the way she put it. And they died.

Q. What did you say to her? A. I told her she had better not dream that about me.

Q. Anything else did you tell her when she fainted away at any time? A. She was telling about these people, and said I, "What have you done to them all that they are coming back to you?"

Q. What did she say to you? A. Nothing. She went over and laid on the lounge. I guess she fainted.

Q. How many times did you ever hear her say that Freeman would be better off dead than alive? A. A couple of times; it might have been more, I don't know; twice, sure.

Q. Do you know what the relations were that existed between her and Mr. Freeman while the Freemans were there and before he was taken sick? A. I thought they were all right.

Q. At any time did she say anything about his going to live at South Boston, and she would keep the children if he went, and then he would stay?

[Objected to as leading.]

A. She remarked that if he went to South Boston she would keep the children any way; that that was her express wish.

Q. Did she tell you what was to be done with the insurance if anything happened to Arthur at any time? Did she make any statement at any time as to what would become of the insurance if anything happened to Arthur? A. At the time she told me it was made over?

Q. At any time? A. Yes.

Q. What did she tell you? A. She told me it was made over to her to take care of Arthur, and if anything happened to Arthur she was to have it.

Cross-examination.

Q. (By Mr. GOODRICH.) What was Mr. Freeman's business? A. I don't know, only what I was told, that he was in some foundry over in South Boston where they used a good deal of acid.

Q. You were at the house a good deal after Mr. Freeman went to Mrs. Robinson's? A. I don't know as I was, sir. A couple of times a week, it may have been more or less.

Q. Yes; you told us probably more and probably less. A couple of times a week any way? A. Yes, sir.

Q. Did you see Dr. Beers there occasionally? A. Well, I used to go probably in the evening, but I would hear of his being there during the day.

Q. Did you see him there yourself, occasionally? A. Not during the week. I have seen him there of a Sunday afternoon.

Q. How frequently? A. Not very often, sir.

Q. Have conversation with him? A. Well, not at that time.

Q. When was the time when you had conversation with him? A. Not until after they moved to Somerville.

Q. When did they move to Somerville? A. After the death of Freeman.

Q. Then did you visit Mrs. Robinson's house a good deal after that? A. Not for some time after.

Q. You saw Dr. Beers there in the house at Somerville? A. Yes, sir.

Q. After the death of Freeman? A. Yes, sir.

Q. You saw a good deal of Dr. Beers? A. Yes; he was there quite a number of times.

Q. How frequently, should you say? A. Well, I could not say, because I did not see him every time he came.

Q. How often did you see him there? A. Probably a couple of times a week.

Q. You saw him probably a couple of times a week at Somerville, and that continued? A. What, his calling there?

Q. Yes. As long as you were in the habit of visiting at Mrs. Robinson's house, these visits of Dr. Beers continued also? A. Yes, sir.

Q. And they continued substantially up to the time of Mrs. Robinson's arrest, didn't they? A. As far as I know, sir.

Q. So far as you remember? A. Yes, sir.

Q. And over there in Somerville you had conversation with Dr. Beers? A. I had conversation with him, sir.

Q. Was he represented as a married man or as a single man?
A. He was represented to me as a widower.

Q. Did he ever say anything to you about his sentiment towards Mrs. Robinson? A. Only that one Sunday that was spoken of in the last trial.

Q. I guess we will let you mention it now, if you will. A. Well, I was in the front room, in the parlor, reading a newspaper or a book, I am not sure which, but I believe it was a newspaper, and they sat on the sofa right in front of me.

Q. By "they" you mean whom? A. Mrs. Robinson and Dr. Beers. They had been having some conversation, and he wanted me to look at him put this ring on her finger and make them both one. He asked me a couple of times.

Q. (By Mr. STEVENS.) When was this? A. This was after Lizzie's death, in the spring, before Mrs. Robinson was arrested.

MR. STEVENS. How can that be of any consequence? It was a long time after he died. But we will not object.

Q. When he asked you to see him put the ring on Mrs. Robinson's finger to make them one what response did she make? A. I believe she told him to stop his foolishness, or something to that effect, that I didn't care, or made some kind of remark. I didn't pay much attention to it.

Q. So far as you ever observed her conduct towards Mr. Freeman was she affectionate and kind while he lived there? A. Well, I should say so.

Q. What? A. I should say so.

Q. During Freeman's sickness, Mrs. Robinson, so far as you noticed, was assiduous and devoted in her attention to Mr. Freeman, was she? A. She was devoted in her attention to him so far as I could see.

Q. Seemed solicitous and anxious to do everything for him that could be done? A. Appeared to be.

Q. Seemed to be a good deal worn out and exhausted by her care for him? A. She said she was.

Q. And was there anything in her appearance which led you to doubt the truth of that? A. Why, she didn't look to be very much played out.

Q. But you remember that she complained of being weary and exhausted? A. Yes, sir.

MR. GOODRICH. I think that is all.

Recess of five minutes.

WILLIAM FOSTER — *sworn*.

Q. (By Mr. STEVENS.) Your name is William Foster? A. William Foster.

Q. And you reside in Cambridge? A. Yes, sir.

Q. During Mr. Freeman's sickness did you go to Mrs. Robinson's house? A. Yes, sir.

Q. When was it? A. On the day he died.

Q. That was Saturday? A. Yes, sir.

Q. What time in the day? A. About three o'clock in the afternoon.

Q. How did you happen to go there? A. I went there by request of Mrs. Robinson.

Q. What did she tell you when you got there? A. She said that Freeman was very sick; he had come home a few days before that, and had gone to bed, and had been there ever since.

Q. Had been there ever since? A. Yes.

Q. Did she tell you what she wanted you for? A. She said she would like to have me come and see him, and that he liked to have people call and see him.

Q. After you went out of the room where he was where did you go? A. Out into the kitchen.

Q. Did you have any conversation with her there about the insurance? A. Yes; I asked her what she thought about the case, whether she thought it was very serious or not, or whether she thought he would get over it, and she said she didn't know. And I said, "It will make things pretty hard for you if you have to take care of that boy;" and she said that was all right, that he was insured for two thousand dollars in the Colony of the Pilgrim Fathers, and that the insurance had been made over to her.

Q. Did she say anything else in connection with that? A. She said she wouldn't have taken him if the insurance hadn't been made over to her.

Q. Was that all the conversation that took place? A. Yes, sir; because I left then.

Q. When did he die? A. He died at twelve o'clock that night, June 27.

Q. Did you have any talk with her after that about the insurance? A. She said that she thought his friends would probably want the insurance papers, but that she didn't think they would find them; that they had been put away where she didn't think they would be able to get them. That is all the conversation I had about the insurance.

Q. You are a connection of Mrs. Robinson, are you? A. Yes, sir.

Q. A second cousin? A. Yes, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) Did she tell you that she had any insurance papers? A. Yes, sir.

Q. She told you that she had insurance papers? A. Why, yes; she said she had his papers.

Q. And that his insurance papers had been put away? A. Yes, sir.

Q. Where his folks wouldn't get them? A. Yes, sir.

Q. You brought up the subject of the care of the boy after his death yourself, you say? A. Yes, sir.

Q. Told her it would be hard for her to have to take care of him? A. Yes, sir.

Q. And she said that he had left some money? A. Yes.

Q. Which would enable her to take care of him? A. Yes.

F. J. HAYES — sworn.

Q. (By Mr. STEVENS.) What is your name, sir? A. F. J. Hayes.

Q. You live in South Boston? A. I do not.

Q. Where do you live? A. In Chelsea now.

Q. Did you know Prince Arthur Freeman? A. I did.

Q. Members of the same Colony, were you? A. We were.

Q. Do you remember when he was taken sick, the twenty-second day of June, Monday? A. I do; yes, sir.

Q. Where did you work at that time? A. I worked for the firm of W. A. Whitney, 159 Broad Street, Boston.

Q. Did you meet Prince Arthur Freeman that morning? A. I did.

Q. What time was it? A. Between half-past six and seven o'clock.

Q. Whereabouts was it? A. On Pleasant Street, between Shawmut Avenue and the Providence Depot.

Q. What was his condition when you met him? A. He was awfully weak, pale, then. I used to meet him before that. This morning I asked him what the matter was. He says, "Mr. Hayes, I feel awfully queer in the stomach; I don't feel well; I feel awfully queer. I have just thrown up my breakfast." I said, "Well, Mr. Freeman, if I was you I would turn round and go home." And he said, "I can't; I have had considerable sickness, have just buried my wife," I believe he said, "and I am only getting six dollars a week, and I have to look out for my family." And then he asked me about his insurance papers. He said, "I applied a good while ago for them;" and he said, "he was coming to the meeting to see

if they were all right that night." And I said, "That is right. Come, Mr. Freeman, if you are able; but I guess they are all right."

Q. Did you have any conversation with Mrs. Robinson at any time, subsequently to her having received this insurance, about it?
A. I didn't know Mrs. Robinson at that time.

Q. I say after that. A. I did.

Q. When was it? A. After William died.

Q. What was that conversation? A. I was sent by the Governor of General Prescott Lodge, after William died, to the house in Somerville to make arrangements about the funeral. I went there Monday morning and saw Mr. John Robertson of Natick, and told him what it was, and he said, "I expected—"

Q. Never mind that. A. I went to Union Square, Somerville, to see Chief Parkhurst, and Chief Parkhurst told me—

Q. Never mind that. A. I went in there and saw Mrs. Robinson and shook hands with her; and, as I said, I went to the house in Somerville and told her the people wanted some money; and she said, "Mr. Hayes, I haven't got any money." And I said, "They are much in need of money and they sent me to see if you had any." And she said, "I haven't any; all the money there is William has." And I said William was not in condition to speak; and she asked me if William was dead, and I said yes; and she said, "Well, Mr. Hayes, I haven't any money at all, and—"

Q. Did you say anything to her about receiving the two thousand dollars? A. I said, "Mrs. Robinson, I know you have received four thousand dollars from the Pilgrim Fathers, and it looks as though you might have money enough to pay the funeral expenses of one person." And she said, "Well, I haven't got a dollar."

Cross-examination.

Q. (By Mr. GOODRICH.) You told her that she had received four thousand dollars? A. Yes; I told her that she had received four thousand dollars.

Q. Did you suppose she had? A. Yes, sir; had every reason to suppose so.

Q. What reason had you to suppose she had received the insurance money on her daughter Lizzie's death? A. Well, because it was made over to her.

Q. You understood it so, did you? A. I did.

Q. Before her death or after? A. Before Lizzie's death.

Q. You so understood it? A. Yes, sir.

Q. And she didn't take the pains to correct you at all? A. No, sir.

Q. Now, on this morning when you met Mr. Freeman, tell us what

he said about his insurancee again? A. It was quite a while before that, perhaps a month or six weeks, that he applied to the lodge to have his certificate made over in favor of his child; and I don't know, but there was some delay, and it was quite a while before he got it changed, or something was the trouble.

Q. He finally did get it changed in favor of his child, didn't he?

A. Not that I knew of. I never saw the papers.

Mr. WATERMAN. The papers will show that.

Q. Did he tell you that he had made some arrangements to have it made over in favor of his child? A. Yes, sir.

Q. And what did he say on this morning when you met him?

A. Nothing; only I asked him what the trouble was, and he said he was feeling sick, and he had just thrown up his breakfast.

Q. About the insurancee? A. Oh, he said he was coming over that night to see what the delay was.

Q. What delay? A. About the papers. He ought to have received notice of the transfer.

Q. He was anxious about that? A. He appeared to be; yes, sir.

Q. And was coming over that night to see what the trouble was?

A. Yes, sir.

Q. And that it was to be transferred to his child, he told you?

A. So he said.

JAHN PETER JOHNSON — *sworn.*

The witness being a Swede, and unable to speak English, Jahn Junquest was sworn to interpret faithfully, and as skilfully as he was able so to do, the questions of counsel and the answers of the witness.

Q. (By Mr. STEVENS.) What is your name? A. (By the Interpreter.) Jahn Peter Johnson.

Q. In 1885 where did you work? A. He worked at the Norwegian Steel and Iron Company, South Boston.

Q. You had better interpret the language just as he puts it. I suppose he says, "I worked there." Where was that Iron Company?

A. South Boston.

Q. Did you work in the same shop with Princee Arthur Freeman in February of that year? A. Yes, sir.

Q. By the way, to what nationality do you belong? A. Sweden.

Q. Do you remember how long Princee Arthur Freeman worked there? A. He don't remember exactly, but he thinks it was about two months or so.

Q. Do you remember the last day that Freeman worked there?

A. As far as he can recollect it was on Monday. He says it is so long ago that he can't possibly say; but the day, he says, he thinks, was Monday.

Q. Does he remember what time Freeman left work on that day to go home? A. He says he left at six o'clock.

Q. In the forenoon or afternoon? A. In the evening.

Q. Do you remember what his condition was that day as to his health?

FIELD, J. I understood you to inquire about February, 1885.

MR. STEVENS. I did. It was a mistake. It was June.

FIELD, J. The important point is to have the witness understand it.

MR. STEVENS. I am very glad to have your Honor call my attention to it; it was a slip on my part.

FIELD, J. You had better ask him if he understands the time he is testifying about.

Q. (By MR. STEVENS.) What time of the year does he understand he is testifying about? A. He says it was during the summer.

Q. What was Freeman's condition as to his health on that day? A. His condition was good, as far as he knows.

Q. Does he remember whether or not he was sick? A. Well, he says that he didn't know of his being sick, any more than the latter part of the time he complained of pain in his stomach.

Q. (By MR. GOODRICH.) The latter part of the time? A. The latter part of the time he worked there, he says.

Q. (By MR. STEVENS.) Do you mean that day? A. He says the last day he didn't hear him complain, but a day or two previous to that he complained of it.

Cross-examination.

Q. (By MR. GOODRICH.) Will you ask him this question: On how many different days does he remember that he complained of being sick to his stomach? A. He says he thinks about three or four times he heard him complain, but not every day running, but now and then.

Q. Ask him if he means on three or four different days? A. No; there were some days between the complaints.

Q. There were some days between the complaints? A. Yes, sir.

Q. Ask him to state again what he complained of? A. He says he felt a terrible soreness and pain in his stomach.

Q. Ask him if he complained of soreness in his throat? A. No, sir.

Q. What did Freeman do, — what was his work? A. He was pickling bars, iron bars, — put them in the pickle, take them out and scale them off.

Q. Tell him to describe the method of pickling iron bars, how it is done? A. They have a long trough filled partly with water and

sulphuric acid, that is heated up, and during the time the steel or iron bars, or whatever is manufactured, are put in there and lay there a certain time, and they are then taken out and sealed.

Q. Ask him what part of the contents of the trough is water, and what part sulphuric acid, — what proportion? A. He can't give the exact proportion, but it is merely by a practical experience; when the acid does its work it is right; and if it doesn't do it, whether too strong or too weak, it will tell, and they will alter it.

Q. How long is the trough? A. About twenty feet, he thinks.

Q. How wide? A. About between twenty-five and thirty inches.

Q. How deep? A. About a foot, he says.

Q. What is the trough lined with? A. Lead lining, sir.

Q. How many gallons of sulphuric acid does he put into the trough in order to commence work? A. He says they put in about a pail and a half at the time, and Monday morning it is short, and they put in heavy iron, and they put in that, about.

Q. About a pail and a half all the time? A. Well, during the latter part of the time they put in a pail, — if it is short, a pailful.

Q. How much do they usually put in each day in all? A. Some days three pails and some days four, according to the force of the work, and the steam boiler — the boiler keeping it hot, it evaporates away, and they have got to renew it.

Q. Ask him if the contents of the trough are heated so that they produce steam? A. Yes, sir; it creates steam by boiling.

Q. Ask him if vapor and steam is constantly arising from the trough? A. After he got the vat of iron into the trough they put on steam and boil it for a while, and then shut off, and take that vat out and put another in; and during the time of the boiling it creates considerable steam, vapor, but there is an opening on the roof that takes it away.

Q. Ask him if sometimes the steam does not fill the room? A. During the winter it does, but in the summer time, when they can have everything open, it doesn't accumulate.

Q. Ask him if this steam or vapor makes any deposit on the walls or on the rafters? A. Nothing but dampness from the steam, he says.

Q. Ask him if it makes them black? A. He says they are more a color like this rail.

Q. Ask him if he notices a whitish powder deposited on the rafters and walls? A. He says when it gets dry that it shows a little whitish, that is all.

Q. Don't these vapors sometimes become so thick that you cannot see across the room? A. He says if they neglect to open the ventilators it can be so they can fill the room with steam; the room will fill with steam if they don't open the ventilators.

Q. Ask him if in heavy dull weather, when the air is heavy, whether the steam will rise as well as it does on dry days? A. When the weather is dull the steam is apt to stop more in the room than when it is clear.

Q. Ask him if that is not so at all seasons of the year? A. More or less, according to the weather, sir.

Re-direct examination.

Q. (By Mr. STEVENS.) How long have you worked there pickling iron? A. Nearly five years.

Re-cross examination.

Q. (By Mr. GOODRICH.) Ask him what he does, — what his business is? A. He pickles iron.

Q. In the same room with Freeman? A. In the same room with Freeman; yes, sir.

Q. He is foreman of the room? A. No, sir; nothing but —

Q. Simply works in the same room? A. Yes.

Q. Ask him how long he has worked in that business? A. He worked there five years, and that is all that he has worked at that business.

WILLIAM JOHNSON — *sworn.*

Q. (By Mr. STEVENS.) What is your full name? A. William Johnson.

Q. Are you the foreman of the Norway Steel and Iron Works, South Boston? A. In the shafting department.

Q. That is where Freeman worked in June, 1885? A. Yes, sir.

Q. Do you remember the last day he worked there? A. Yes, sir; he left between three and half-past.

Q. Do you know why? A. Because he had a severe headache, and was not able to continue the afternoon.

Q. You keep the time, do you? A. I did at that time.

Q. It was what time? A. Between three and half-past.

Q. How long have you worked there? A. About eight years.

Q. Have you ever known any one to be ill from the effects of pickling iron? A. I have not.

Q. You may describe this bath, if you please; how much sulphuric acid you use ordinarily? A. When they fill the bath with fresh water they generally put in one or two pails to start with.

Q. Do they add sulphuric acid afterwards? A. Certainly; every day.

Q. How much? A. Well, from one to two pails a day, according to the strength that is required.

Q. Do they add any water every day? A. No, sir; only the water that condenses into steam.

Q. You don't mean that all the water that condenses into steam goes back into water? A. Not all.

Q. How much does it hold? A. One hundred and fifty to two hundred gallons, at a rough estimate.

Q. How often do they refill it? A. They clean it out perhaps once in two or three weeks, or perhaps once a month.

Q. Are you about there yourself, — about in that room? A. About there during the day.

Q. You say you have never known any one to be ill from the effects of that work? A. No, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) What is your business there? A. Foreman.

Q. Of what department? A. The shafting department.

Q. Does that include this pickling department? A. Yes, sir.

Q. You say one or two gallons a day — A. I say one or two pails.

Q. How much do you call a pailful? A. Well, I should think perhaps two gallons

Q. The process develops considerable vapor and steam? A. Certainly.

Q. In dull weather that is apt to fill the room? A. In the winter time when the doors are closed it is pretty full.

Q. And in the summer time in dull weather? A. Of course it does not go off as fast as in clear weather.

Q. And at all times the vapor rises? A. Rises to the roof.

Q. And forms a steam? A. Yes, sir; certainly.

Q. And what is the object of this process? A. To remove the scale from the iron.

Q. How does it do it? A. I suppose it eats it off.

Q. Is it the sulphuric acid that does it? A. That removes the scale; yes, sir.

Q. (By FIELD, J.) Is it cast iron or wrought iron you put in? A. Steel.

Q. Cast steel? A. Soft steel.

Q. (By Mr. GOODRICH.) It is a very powerful agent, is it? A. I suppose it is.

Q. What is commonly called oil of vitriol? A. Oil of vitriol.

Q. And what is the effect of these fumes or vapors on the wall or ceiling? A. Nothing more than dampness, in the summer time.

Q. Nothing more than what? A. Dampness.

Q. Then it makes them damp? A. Certainly.

Q. And does it make a deposit, have you noticed? A. I never seen any.

Q. Haven't noticed any when the rafters were dry? A. No.

MAGGIE J. SMITH — *sworn*.

Q. (By Mr. STEVENS.) What is your name? A. Maggie J. Smith.

Q. Do you live in South Boston, or did you in 1885? A. Yes, sir.

Q. Do you know Freeman, or did you know him? A. I did.

Q. Did you meet him Monday, the twenty-second day of June, returning from his work? A. I did.

Q. Whereabouts? A. About half-way between Broadway extension and the city.

Q. You mean South Boston? A. Yes, sir.

Q. What time of the day was it? A. I think between four and five.

Q. What was his condition? A. Well, I met him, and I says to him, I says, "What is the matter with you, Mr. Freeman? You look dreadful bad."

Q. "You look dreadful bad"? A. Yes. And he says, "I am very sick. I have been vomiting all day." And so I made some inquiries of how long he had felt this way, and he said some time. And then I asked him why did he stay at Cambridge. I said it would be much easier for him to live in South Boston and be handier for his work; and he said that it was, that it would be a little easier for him to be over there, he said, but he said he didn't like it.

Q. I understood you to say he had been vomiting that day? A. Yes, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) He said that he had been the same way for some time, or had been troubled so for some time? A. Yes; he hadn't felt well, he said, for some time.

Q. He didn't say for how long a time? A. No, sir.

Mr. GOODRICH. That is all.

DR. JOHN T. G. NICHOLS — *sworn*.

Q. (By Mr. STEVENS.) What is your full name, doctor? A. John T. G. Nichols.

Q. And you are a practising physician in Cambridge? A. Yes, sir.

Q. Have been for a good many years? A. Yes, sir.

Q. Are you a member of the Massachusetts Medical Society?
A. Yes, sir.

Q. And were the physician who was called to Mr. Freeman during his last sickness? A. Yes, sir.

Q. When? A. In June, 1885. I suppose I may refresh my memory with memoranda made at the time?

Q. Certainly. A. The 22d of June, 1885, I saw him first.

Q. What time of the day? A. In the afternoon.

Q. What time—? A. Or early evening; I can't say positively the exact hour.

Q. What was his condition then; his symptoms? Please go on and give a history of the case now, doctor. A. He at that time was suffering from headache, from vomiting, from pain in the abdomen, thirst, a quick pulse, low elevation of temperature—I think I have mentioned headache?

Q. Yes, sir. A. Those were the prominent symptoms at that time. A physical examination showed no sign of disease in the lungs, nor in the heart, nor were there any physical signs—I mean by that, signs that were evident to my senses in the abdomen; the abdomen was not distended, it was not tender. I prescribed for him. I can't give you the exact prescription which I made. My memory won't tell me precisely what I prescribed for him, except what I should have given him to check vomiting, or to check the pain. The principal things used at that time were external applications, as I remember them,—mustard, and milk, and lime water, and soda water, and opium, in doses sufficient to relieve his pain. I saw him the following day, the 23d—

Q. Now, there, in connection with his symptoms, and what you did, you may state anything that he said, and that Mrs. Robinson said, about his being taken sick. A. Well, of course my inquiries included the possible cause of his illness. He told me that he went to his work that morning and was taken sick on his way to his work, as I remember it,—at all events, soon after he got there,—with vomiting and headache and pain; and that those symptoms increased to such an extent that he was obliged to leave his work and come home, as he did. Further inquiry as to the—I cannot give you now the precise hour or day at which some of these conversations with regard to the cause of his sickness occurred. They occurred at different times, different days and different visits that I made him, as they were suggested by the symptoms, or by my desire to ascertain the nature of his disease. Now, do you wish me to give what I said about the causes at this time, or to give a connected history?

Q. You can give the whole history of the case, in your own way, doctor, a good deal better than I can ask you. A. The following

day, on the 23d, which was Tuesday, I saw him once only. That day his condition hadn't changed materially, and his symptoms were not severe enough to make me think it necessary to make him a second visit on that day, which was Tuesday. On Wednesday I find that I made him two visits, because his symptoms were worse, and they were worse in that the vomiting continued, and in that the pain continued, in that there was some diarrhoea, in that his pulse was extraordinarily weak. All this while his mind was clear, whenever I saw him, and there had been no fever, as shown by the temperature rising. If my memory serves me it was on that day, and at the suggestion of Mrs. Robinson, or certainly with her consent, — and I think at her suggestion, — a consultation was held with Dr. Driver of Cambridge, and the case was again carefully examined by him as well as by me, and still no evidence could be found of any organic disease. The lungs were carefully examined, and the heart was carefully examined. The sound was very feeble, but no disease could be detected by the ear, nor could there be any disease detected in his lungs or in his abdominal cavity, except as it was indicated by pain and vomiting, — I mean by that that it was not hardened. No evidence of any localized inflammation could be felt, nor was there any evidence of general inflammation, because the patient could move without any considerable pain, and there was no noticeable tenderness. The intestines were active, as shown by the diarrhoea and the rolling and rattling; there was no albumen in the urine; an examination showed that there was some acid, to a specific gravity which was normal. No microscopic examination was considered necessary, and none was made, with those symptoms. At this time Dr. Driver saw this patient with me more than once, — two or three times, if my memory serves me, and after a careful examination of the case close questioning was made as to the possible cause of the disease. In our consultation the question came up of the possibility of some irritant poison. After we had considered that subject, which was broached to the patient and to Mrs. Robinson, — and I think they were both together, — I think in the presence of both, if I am not very much mistaken, — his occupation was considered. We were told of the character of his occupation, that it involved working in the presence of the fumes of sulphuric acid, and the possible handling of sulphuric acid. We determined that even if there were fumes of sulphuric acid in the room it would be impossible, in our opinion, for the symptoms that he suffered from to be caused by the inhalation of the fumes of sulphuric acid. So we dismissed that from our consideration. Then the question of any possible arsenical poisoning arose, and we considered the different methods by which a considerable quantity could be got into the system, — the principal one being the possibility of

household utensils being a way to get it into the system. Inquiry was made, and I am strongly of the impression that we looked at one or two of the household utensils. We satisfied ourselves that there was no reason to suspect that arsenic could have got into his system from any such cause as that. Now, I ought to say that these inquiries were made of the patient and of Mrs. Robinson, and in our presence, all four being present at the time, as my memory serves me; and I must say, too, that those inquiries were answered in a most natural manner both by the patient and by Mrs. Robinson. There was nothing in the behavior of either of them, or in the answers of either of them, to warrant the slightest suspicion on our part that it was necessary to pursue our inquiries more closely. On Wednesday I think I stated I saw him twice. On Thursday, the patient being practically no better, and the symptoms being essentially as I have already stated them, Mrs. Robinson requested that Dr. Davison of South Boston, who, she said, had been the physician of Freeman and his family while they lived there, should be called in consultation, to which I, of course, gladly acceded; and on Thursday, at some time during the day, and I think it was towards night, Dr. Davison saw the patient, and examined him. We consulted together about the character of his disease and its cause, reaching no definite conclusion. Dr. Davison suggested, as I find by a letter which I wrote to him, from which these memoranda are mainly taken, bismuth, which was given. This was on Thursday. On Friday I found that his condition through the day hadn't materially changed, and that evening he was weaker, he was restless, his pulse was 120 and feeble, the sound being very feeble, the second sound being especially indistinct. During that day he had hardly any pain, and no elevation of temperature, the vomiting continuing. He got some brandy and tincture of nux vomica, two drops every hour, hoping to check the vomiting. On Friday I made three visits to him,—he was so sick that I saw him three times. Saturday, in the morning, when I went in to see him, his condition was more favorable. He expressed himself as feeling better, and he certainly looked better. He hadn't had any vomiting for some time, and he had expressed some desire for food. His pulse was still weak, the sounds of the heart were more distinct, clearer and stronger; but some time towards noon he became restless again, and vomited, or made the effort to vomit; and I doubtless saw him at that time, as I find I saw him three times that day before the night, when he died. And Saturday he had three or four discharges of the bowels, which were of brown color, containing no blood or evidence of blood. His mind was wandering some in the afternoon, the sound of his heart was very indistinct, the second sound being absent; his pulse was very weak, and he died, as I say,

some time before midnight. Those were the essential symptoms of his case.

Q. Now, when you first saw him on Monday was there anything about his symptoms or condition to indicate to you that he wouldn't get well? A. No, sir.

Q. When did you first discover any symptoms about him that caused you any serious apprehension? A. Well, I should say I began to be apprehensive about Wednesday, from the continuance of the symptoms. It was their continuance, rather than any change, that made me apprehensive.

Q. Did you have any conversation with him about Thomas Arthur about the time of his death? A. On one of the days, I should say, before Saturday.

Q. Before Saturday? A. Yes, sir. It was during one visit when Dr. Driver was present. Mrs. Robinson wished us to say something to him in regard to the disposition of his boy, Thomas Arthur, the reason being that she was afraid the sister or the mother and father — or, at all events, his friends — would claim the boy, and she felt that he would be much better off with her; that she could give him better care; that she had had them a good while, and that their relations with her were altogether pleasanter than with his own friends. Dr. Driver and I asked Freeman that day what his desire was with regard to the disposition of his boy.

Q. At the request of Mrs. Robinson? A. At her request. His answer was that he wished him to be in the care and in the hands of Mrs. Robinson.

Q. I will ask you where Dr. Driver is now? A. Dr. Driver is at the South, on account of his health.

Q. Now, in your opinion, if arsenic was afterwards found, on an autopsy being made and an analysis, what, in your opinion, would you say was the cause of his death? A. I should say the symptoms were wholly consistent with arsenical poisoning.

Q. What, in your opinion, was the cause of his death? A. As I now form it?

Q. Yes, sir. A. My belief is that, large quantities of arsenic having been found after his death, — my opinion is now that he died of arsenical poisoning.

Cross-examination.

Q. (By Mr. GOODRICH.) Doctor, from anything that Mrs. Robinson or Mr. Freeman said in regard to the boy, did you gather that there had been any conversation between them in regard to the future of the boy? A. I don't remember that I did, sir. You mean with regard to who should have the charge of him?

Q. Yes, sir. A. I don't remember anything that was said which led me to suppose that arrangements had been made for him.

Q. During the sickness of Freeman did Mrs. Robinson appear to you to be solicitous and anxious about his condition? A. Yes, sir.

Q. There was no appearance of dissembling whatever? A. No, sir.

Q. And I presume that, in connection with your consideration of the possibility of arsenical poisoning, you scrutinized perhaps with more care her appearance and conduct? A. With ordinary care, sir. I had no reason to have any suspicion whatever from the circumstances, and with ordinary care I certainly looked at her, and there was nothing to excite any suspicion.

Q. Was she devoted and constant in her attentions to Freeman? A. So far as I could see, sir, she was, — as much so as any one could be.

Q. Did she follow faithfully all your orders and prescriptions? A. So far as my knowledge goes, she did, sir.

Q. And after a consultation — did you have two consultations? A. Dr. Driver saw this patient with me two or three times in consultation, and Dr. Davison once.

Q. And after the consultation with Dr. Driver, after that, there appearing no improvement, she requested a still further consultation? A. She requested a consultation with Dr. Davison; that came from her, sir.

Q. Was there a conversation with the three together? A. No, sir; I think Dr. Driver was not present at the consultation with Dr. Davison.

Q. That was at her request? A. It was at her request, as I have said, sir. Yes; I am sure it was her request. She spoke to me of her reason for having Dr. Davison, — that he had been the physician for the family in South Boston.

Q. And Dr. Driver was called in at whose suggestion? A. My impression is that she spoke of her desire for a consultation, and leaving it to me it was at my suggestion he was called in.

Q. But she spoke of her desire for a consultation? A. Yes, sir; she early spoke of her desire for a consultation.

Q. By the way, what did you certify to be the cause of death? A. I was extremely puzzled to know what to certify.

Q. Won't you tell us, in the first place, what you did certify? A. As I remember, I certified disease of the stomach.

Q. Were the symptoms consistent with disease of the stomach? A. Yes, sir; they were consistent with some diseases which produce inflammation, and disease of the stomach and intestines, — any cause which might have produced that.

Q. This was your official return made as required by the statute?

A. As I remember it I made it so. I haven't looked at it since. It may not have been made in those exact words, but that is my recollection.

Q. He died on the twenty-eighth day of June, did he? A. So my memorandum here says. The 27th, isn't it, sir? I have it here the 27th. I may be mistaken. It may have been after midnight.

Q. Yes, sir. The 28th would have been Sunday, wouldn't it? A. The 28th would have been Sunday, as I figure it.

Q. Can you tell whether it was — A. I can't say whether I made it the 27th or 28th. If he had died just about midnight, or just after midnight, I should have said the 28th, of course.

Q. And, so far as you know, you returned your certificate the next day, the 29th? A. So far as I know, sir. The undertakers are ordinarily prompt. They come to me, and I sign the returns.

Q. And after stating the cause of his death you used this language, didn't you? "I certify that the above is true, according to the best of my knowledge and belief." A. I think so; I think that is the form. Is there anything said about no *post mortem* examination being made?

Q. Yes, sir; no autopsy. A. That is the thing I put in when the disease is obscure. It is my habit to put that in to show that it is simply an opinion, and not based on an examination after death.

Q. If no arsenic had been found in the body on *post mortem* examination you would have had no reason to change your opinion as to the cause of the death? A. I should have said that there are no characteristic symptoms of arsenical poisoning.

Q. There are not? A. That is to say, there are no absolute symptoms of arsenical poisoning.

Q. They are very common? A. They are those of irritation of the stomach and intestines. They may be so grouped, of course, as to make one reasonably certain as to the character of the disease.

Q. The symptoms are the same as in the case of many forms of natural disease, aren't they? A. Practically so; yes, sir.

Q. Very similar, for instance, to cholera? A. Yes, sir.

Q. And to cholera morbus? A. Yes, sir. An epidemic of cholera one might well mistake.

Q. And a bilious attack? A. Yes, sir.

Q. And all irritable poisoning? A. Yes, sir.

Q. You may mention some of those irritable poisons? A. Well, anything that would cause diarrhœa, vomiting, — such as oxalic acid, sulphuric acid, and chloric acid.

Q. The symptoms would be the same with sulphuric acid?

A. The general symptoms of vomiting and pain and thirst would be

present. I mean to be understood to say that a person not having his attention directed to it would not be able to distinguish them; a person having his attention directed to arsenical poisoning symptoms would be able to distinguish it.

Q. Do you remember now of any distinction between the symptoms of poisoning from sulphuric acid and arsenic? A. Yes, sir. In sulphuric acid, if it is drunk in any considerable quantities, it would not develop so long a series of symptoms as arsenic. Sulphuric acid is caustic and destroys the symptoms, and if a sufficient dose be taken the person collapses.

Q. If it was taken by inhalation, for instance, slowly and gradually? A. I can't say that I have ever known of any result following that, sir. I have had no experience with that. I should suppose it would fall on the respiratory organs, and not on the intestines.

Q. And being taken into the circulation, then, it would affect all parts of the system, would it not, after getting into the circulation? A. I can't profess to be an expert in pathology, sir; but I should hardly suppose that inhalation could carry about enough to produce any serious harm. Its effect is so serious at the point of introduction that I should suppose its effect would be spent there.

Q. Sulphuric acid is very destructive? A. As a destroyer of tissue it is just as destructive as fire is.

Q. You don't remember what medicine you administered to Freeman when you first saw him? A. I don't know, except that I did give him bismuth at Dr. Davison's suggestion, — except he got brandy —

Q. You did administer bismuth, then, at first? A. Not at first. It was not given, as I remember, until it was suggested by Dr. Davison on Thursday.

Q. I ask you now particularly what medicine you gave him on your first visit? A. I have no memoranda. I think I ordered milk and lime water, after I ordered soda water and opium, but I have no memoranda which enable me to testify certainly.

Q. That you didn't administer personally, only ordered it? A. Ordered it.

Q. And that you think was procured by somebody else? A. Yes, sir; in that case I think it was procured by somebody else.

Q. Don't you keep any record of the prescriptions which you make, which you issue? A. No regular record; no, sir.

Q. Then I presume that in this case, if you made no memorandum of the prescription, you didn't make any memorandum of the symptoms that you observed? A. The only memorandum I have of the symptoms, sir, as I have stated, is I have refreshed my memory by reading a copy of a letter which I wrote to Dr. Davison on Sun-

day, the day after the death of Freeman, telling him of the result of the case, and rehearsing to him to some extent the symptoms and the treatment. That is the memorandum with which I have refreshed my memory, and is the only memorandum I have, excepting the memorandum of visits made to Freeman, on my books.

Q. Then you didn't make a memorandum of any prescription you gave during the week, did you? A. Excepting as it stands in this letter, sir.

Q. That is all? A. That is all.

Q. By the way, is arsenic used more or less as a medicine? A. Yes, sir.

Q. It is a substance that is well known and a good deal used? A. Yes, sir; in medicines it is used a good deal.

Q. And is bismuth, by the way, likely to be contaminated by arsenic? A. I believe that it is, sir, in its crude form; I think that it generally is.

Q. Generally is? A. In its crude form, as I understand it.

Q. And in its refined form, or in the form in which it is used as a medicine, is it sometimes found to be contaminated? A. It is sometimes found to be contaminated with arsenic in the form in which it is used as medicine.

Q. When bismuth has been administered your attention is generally directed, as a doctor, isn't it, to an examination of any bismuth that may have been administered? A. I beg your pardon, sir. I think I don't quite understand your question.

Q. I say that, in any suspicion of arsenical poisoning, if bismuth has been administered to the patient you at once direct your attention to an investigation of that article, don't you, sir, — bismuth particularly? A. If I was suspicious I probably would do so, certainly.

Q. There is considerable probability of its containing arsenic? A. We are told so; but we believe that bismuth now, as sold by the best makers, is free from it, — it professes to be.

Q. Can you tell how many different prescriptions you gave during the week to Freeman? A. No, sir; I cannot.

Q. Nor about how many? You can't tell us about that? A. It would be guesswork, sir, and I should be sorry to guess at that.

Q. During your visits to Mr. Freeman did you at any time see Dr. Beers there? A. Not to my knowledge, sir; I haven't the honor of his acquaintance, and don't know whether he was there or not. Various people were in and about the place.

Q. You saw some people that you didn't know? A. Yes, sir; several.

Q. Have you since then seen a person known as Dr. Beers? A. I have, sir, but I don't remember to have seen him there. But I did not recognize him as having ever seen him before.

Re-direct examination.

Q. (By Mr. STEVENS.) Now, are you able to form an opinion whether or not the symptoms which you observed were consistent with acute sulphuric acid poisoning? A. No, sir; I should say they were not consistent with that in any reasonable sense of the word.

Q. Do you know where the bismuth that you prescribed on Thursday was obtained? A. I have reason to believe that it was obtained either from the apothecary establishment now conducted by Mr. Claflin, then by Mr. Ramsey, or the establishment conducted by Mr. Hubbard.

Q. Do you know anything about it, doctor? A. I only know that most of my prescriptions go to one of those two places. I can't swear certainly to it.

Q. When you speak of bismuth being contaminated with arsenic do you mean to speak of it as it is manufactured now, or formerly? A. My only knowledge in regard to that was the result of examinations made several years ago by chemists to determine the possibility of the existence of arsenic in bismuth as used for medicinal purposes.

Q. Do you use it frequently, sir? A. Constantly.

Q. In your use of it have you ever noticed any effects to indicate that there was arsenic about it? A. No, sir.

Q. I wish you would return to your notes, doctor, and refresh your memory from them — have you them with you? A. I haven't them with me.

Q. Can you remember and say whether or not Prince Arthur Freeman was better on Thursday? A. There was an improvement Saturday morning in his condition, an apparent improvement —

FIELD, J. He was no better he said.

The WITNESS. I have nothing here to show that he was any better on Thursday, because that was the day that Dr. Davison came to see him; and if he had been better I think that consultation would have been postponed.

Re-cross examination.

Q. (By Mr. GOODRICH.) You say he was better, doctor, on account of his appearing to be better? A. Yes, sir.

Q. That was what you meant, was it? A. Yes, sir.

Q. I suppose you would not say that the effects of arsenical poisoning were constant rather than intermittent? A. I would say so.

Q. You would not, would you? A. I suppose the effect of a dose of arsenic might continue, and does continue, over a considerable time.

Q. But if a person takes a full dose — A. He won't get any better.

Q. [Continuing] and lives for five or six days, might he not on the third or fourth day appear better? A. I should say he might, sir. This patient appeared to be better on the third or fourth morning, but he was not better, I suppose.

Q. He may appear to be better and get worse again without any further administration of the poison? A. Yes, sir.

Q. And when you say he was better on Thursday morning you mean that he seemed to be better? A. Yes; I say that I think he appeared better.

Q. During your treatment of Freeman did you observe any symptoms or appearances which you have not described to us which occurred to you? Did you notice any peculiar appearance of his night-shirt, or the sheets on his bed, as to discoloration? A. Yes, sir. Now you speak of that it comes to my memory that there was something peculiar about the staining of his night-shirt and of the sheets.

Q. Describe as well as you can that appearance? A. If my memory serves me it was a slight greenish discoloration. It had entirely gone from my mind until you spoke. I think that was one of the things which suggested the possibility of its being the acid used at his work.

Q. What do you now think, and what is your personal opinion? A. At the time it was considered and determined and decided, to the best of our knowledge, to connect it with his case, — we couldn't, from our experience or reading, account for it in connection with him.

Q. Let me ask you to account for this appearance? A. We supposed it came from something entirely outside of the patient.

Q. Didn't you suppose it came from the perspiration of his body? A. That was the first supposition, but our experience led us to dismiss it as not likely to have come from that cause. Of course we may have been mistaken. That was our view at the time.

Q. From the situation didn't the stain apparently proceed from respiration, come from respiration? A. Do you mean the breath, by that?

Q. No; I mean perspiration? A. Oh, yes; the perspiration being generally over the body it might have come from that.

Q. You describe this as greenish? A. That is my recollection of it. You must understand it had gone out of my mind until you spoke of it.

Q. But now that you recall it? A. My memory is faint. It was dismissed from consideration after being considered, I remember, and

it was assigned, I suppose, to one of those things we see in the practice of medicine that we cannot explain.

Q. Can't explain it? A. No; we see so many things we cannot explain.

Q. His night-shirt was stained with a greenish stain, you say. Now, did that extend over the whole garment pretty much? A. My recollection is not; that it was in streaks or spots.

Q. Over what proportion of the whole garment was it? A. My memory will not serve me sufficiently there to give you a statement. My memory is that it couldn't have involved a half or even a fourth of the whole garment, it would have been so noticeable.

Q. And in addition to that the sheets presented the same appearance? A. My memory is that they presented the same appearance.

Q. And those stains extended the whole length of the body on the sheets? A. I can't tell you, sir.

Q. So far as your recollection goes? A. So far as my recollection goes I should say not; I should say the upper part of the body, as it was in the night-gown, sir. That, of course, is a very shadowy recollection.

Q. Shadowy, why? A. Shadowy because it was dismissed after a long consideration as not having any bearing on the case.

Q. Why did you dismiss it so? It was apparently coming from his body. A. Apparently.

Q. Well, account for it now. A. The only thing that I have seen resembling that sort of thing, and which I felt satisfied had any material bearing on my patient, is the stains that occasionally come from vomiting. They are seen frequently in disease, having a greenish tinge, together with other colors.

Q. (By FIELD, J.) The stains from the vomitus, or stains from the perspiration? A. I mean the vomiting, — it is the stain.

Q. (By Mr. GOODRICH.) You ought to remember, doctor, whether the place where these stains were seen was a place where any vomitus would be likely to be seen or not? A. My recollection is that it was not. The first thing that occurred to us was that that was more likely to come from the sweat of the patient than from vomiting.

Q. That is the way it struck you? A. Yes. The vomitus might have got into that position, of course, but it was not a place where you would naturally look for it.

Q. Your opinion at the time was that it came from this sweat? A. No, sir; I don't say that is our opinion.

Q. What do you think? A. I say its position was such as to lead us to consider that as the first probability.

Q. Did you consider that with some care? A. I suppose we did, sir.

Q. Did Mrs. Robinson call your attention to it? A. Yes, sir; I have some recollection of it.

Q. Did you examine the clothes with reference to the effect of the stains upon the tissue of the garment,—that is, did you undertake to tear the spots? A. I don't remember that I did, sir. I have a recollection that something was said by Mrs. Robinson, or by somebody in the room, to the effect that the clothing which he had worn and the sheets which he had used were injured in their texture, and that they had been of no use before this sickness.

Q. And pulled apart? A. Were injured in their texture by becoming rotten; they had become rotten.

Q. You were informed of that? A. I was informed of that.

Q. And you had the opportunity, at least, before you of verifying it. And do you remember whether or not you did verify it? A. I did not, sir.

Q. Let me ask you whether you can tell us whether the inhalation, in your judgment, of the vapors of sulphuric acid into the system for a considerable length of time might have been the cause of this appearance on these sheets? A. I suppose, sir, though it is not an opinion formed from observation in a similar case, but I should suppose that the inhalation, for a considerable time, of the fumes of a powerful acid would render the tissues acid. I should expect to find the acid more acid than it normally is, and the linen more acid than it normally is.

Q. Then you do not think that it would be unreasonable if a person had, in fact, inhaled fumes of sulphuric acid,—it would not be unreasonable to connect the appearance of the sheets and of his night-shirt with that circumstance, would it? A. I won't say that it would be unreasonable to connect it, but it would require some experience to be satisfied with it, and some experimentation.

Q. You can't refer to anything more reasonable? A. Nothing more reasonable than that it might result from the matters vomited.

Q. You told us that bismuth was sometimes contaminated with arsenic. Is sulphuric acid also contaminated with arsenic? A. That is a question, sir, that a chemist could answer much better than I.

Q. Generally? A. Yes, sir; I have a general impression that commercial bismuth does often contain arsenic.

Q. (By Mr. STEVENS.) What kind of a shirt was it he had? A. A cotton shirt.

Q. Did he wear an undershirt? A. I don't remember that he had one on at the time I saw him.

Q. Now, do I understand that the stain extended over the entire portion or only a part? A. Only a portion.

Q. And about his night-shirt? A. Only a portion of it, in spots or streaks.

Q. In spots or streaks? A. Well, you mean by a streak a long spot, I suppose?

Q. Yes. A. Some of them were long, and some were round, — irregular shapes as I remember it.

DR. A. T. DAVIDSON — *recalled*.

Q. (By Mr. STEVENS.) I believe you got so far yesterday as to say that you were a physician over in South Boston? A. Yes, sir.

Q. You are a member of the Massachusetts Medical Society? A. I am.

Q. And that you had been for a long time the family physician of the Freemans. Were you called over to see Mr. Freeman when he was sick? A. I was.

Q. When was it? A. On the 25th of June, 1885, I think.

Q. On Thursday? A. Thursday, the 25th.

Q. Will you state now what you observed? A. I was in consultation with Dr. Nichols. I called in the afternoon, I think, about four or five o'clock. We found on examination that he was quite weak, suffering with pains in the abdomen, bowels, and vomiting. He complained of great thirst, extreme thirst, and seemed rather restless. He didn't appear to have any fever. His temperature, I think, was about normal. That was his condition, as near as I can remember.

Q. Do you remember whether you discovered anything about him which would indicate a fatal disease? A. I did not. I didn't consider him seriously sick at the time.

Q. Didn't consider him what, — seriously sick? A. Didn't consider him seriously sick.

Q. That is the only time you saw him? A. That is the only time.

Q. Now, suppose arsenic was found in his body afterwards, what should you say was the cause of his death, in your opinion? A. I should think, taken from the symptoms at that time, it was caused by poisoning, arsenical poisoning.

Q. I want to go back, if it is not excluded by the court now, and ask you one single question about Mrs. Freeman. When Mrs. Robinson came, I want to ask you what her condition was at that time, — whether she was better or not?

MR. GOODRICH. I object. I do not see why you want to go into Mrs. Freeman's condition.

MR. STEVENS. I am not going to try to prove now that she died of arsenic. We have put on this witness —

FIELD, J. We think we may as well announce our conclusion first as well as last on the question of the death of Mrs. Freeman. We

think that sufficient evidence has been introduced to warrant the introduction of evidence of the cause of the death of Mrs. Freeman, and of this defendant's connection with it.

MR. GOODRICH. Your Honor will save my exception.

FIELD, J. Yes, sir.

MR. STEVENS. I have some further evidence to introduce on that.

Q. Now, doctor, we will commence with Mrs. Freeman. You were called on, when? A. I attended the family several times. I was called to her on the tenth day of February, 1885.

Q. What was the matter with her, and what were her symptoms?

A. She said she had been sick for a few days before I was called to see her. I found her suffering with pneumonia. She had the symptoms of pneumonia.

Q. (By FIELD, J.) Excuse me. You were called when to Mrs. Freeman? A. Feb. 5, 1885.

FIELD, J. Of course we admit the testimony of the cause of the death of Mrs. Freeman and the defendant's connection with it, as bearing upon the question of the death of Mr. Freeman, and the defendant's connection with that, on the ground that there is some evidence of the same motive for both, and the same plan or intention on the part of the defendant with reference to both.

MR. GOODRICH. But only upon the question of motive, and not as having any tendency to prove the main fact.

FIELD, J. We do not see how you can distinguish on that point, because the question of motive goes to the question of guilt; and it seems to us the time to say that we admit the testimony. The thing to be proved is only admissible on the question of motive, and it is only through motive that it is relevant. But still, if it relates to motive, it relates to guilt.

Q. (By MR. STEVENS.) Now, give your own history, if you please,—the history of Mrs. Freeman, her sickness from the time you went there until she died, and the conversation you had with Mrs. Robinson in reference to her, so far as you can recall, giving the conversation, and the symptoms, and the sequence in which they occurred. A. On an examination I found she was suffering from pneumonia, as I said before,—inflammation of the lung. She had quite a high fever, and considerable pain, suffering with considerable pain in the lung, shortness of breathing. I continued to treat her for that disease for a number of days. The disease ran the usual course of pneumonia,—that is, we get pain, perspiration, cough and fever first. I attended her along until—I think it was along the 18th or 20th. About the 20th the inflammation subsided.

Q. Now, up to the time when Mrs. Robinson came, what was the condition then? If you will make a break and tell us what her condition was at that time? A. I can't tell you exactly when Mrs. Robinson came. I should think it was about a week before her death, but I couldn't say exactly. That is the best of my recollection.

Q. Go on, doctor. A. Along about the 20th the symptoms subsided, the fever subsided, and thirst, and to all appearance she was over the dangerous part of pneumonia, when a new set of symptoms developed, — that is, she had commenced to vomit, she had thirst, and some pain in her stomach and bowels.

Q. Was her head affected? A. I think not.

Q. I mean as to her having headache? A. Yes; I think she had headache, but she was not delirious. And in spite of the remedies that were used, the treatment and nourishment, she continued to sink, and died somewhere about the 27th, I think, of the month.

Q. Who was the nurse that took care of her during her pneumonia? A. I don't know what her name was; I don't remember.

Q. You remember she had a nurse, and the nurse went away? A. Yes, sir.

Q. Do you remember having any conversation with Mrs. Robinson about the nurse, or why the nurse went away? A. No, sir.

Q. Do you remember having any conversation with Mrs. Robinson about her sister recovering? A. Yes; she was very solicitous in regard to her sister's welfare and condition.

Q. What? A. She was very solicitous.

Q. What did she say about her getting well? A. Well, I can't remember any special conversation, only that she was extremely anxious about her getting well.

Q. Now, doctor, from the symptoms, have you been able to form an opinion of what was the cause of her death?

Mr. GOODRICH. It should be limited to his deductions from his knowledge.

FIELD, J. From his own knowledge; yes. From what you saw of the patient.

Q. (By Mr. STEVENS.) Are you able to form an opinion of what was the cause of the death? A. I thought at that time it was pneumonia.

Q. Well, what do you think now?

Mr. GOODRICH. From his knowledge.

Mr. STEVENS. Yes, sir.

FIELD, J. What does he mean by "knowledge"? Do you mean from anything that he heard, or from the symptoms that he observed at that time?

Mr. STEVENS. I am confining him now to the symptoms, as he recalls them, that occurred at that time.

Q. Are you able to form any opinion from those symptoms alone of what was the cause of her death? A. Yes.

Q. Well, sir, what is that? A. I think she died from poisoning.

Q. From arsenical poisoning? A. From arsenical poisoning.

Q. Why do you think she didn't die from pneumonia, as you recall the symptoms? A. Because the symptoms of pneumonia had subsided, and she was doing apparently well, and I could see no reason why she shouldn't get well, and she failed to improve under ordinary treatment and care. The new symptoms developed were not in accordance with pneumonia.

Recess until 2 o'clock.

AFTERNOON SESSION.

Cross-examination of Dr. A. T. DAVIDSON.

Q. (By Mr. GOODRICH.) Dr. Davison, so far as your personal knowledge goes, are there any facts since the death of Mrs. Freeman which would change your opinion as to the cause of her death, or is it derived from hearsay? A. Yes, sir, mostly, except Mr. Freeman's sickness, his symptoms.

Q. You filed, I presume, the usual certificate required by law on the cause of Mrs. Freeman's death? A. Yes, sir.

Q. And you certified that the cause of her death was pneumonia in your opinion? A. I think so.

Q. I think you said that all the time during the sickness of Mrs. Freeman, Mrs. Robinson appeared to be solicitous and extremely anxious in regard to her health? A. Yes, sir.

Q. You meant by that, she seemed very anxious for her recovery? A. Yes, sir.

Q. And she was devoted and attentive to her during the whole time of her sickness? A. She appeared to be.

Q. Followed your directions with faithfulness? A. I think so.

Q. Did Mrs. Robinson call at your office in company with any one during the sickness of Mrs. Freeman? A. I can't remember exactly; I think she did.

Q. Do you remember whom it was she called with? A. No, I don't.

Q. Do you remember any conversation you had with her in regard to Mrs. Freeman's sickness? A. I can't remember the conversation.

Mrs. FLORENCE A. STANWOOD — *recalled*.

Q (By Mr. STEVENS.) Mrs. Stanwood, were you here when Belle Clough testified this morning? A. Yes, sir.

Q. You heard her testify to a conversation which occurred between you and her at the time she and Lizzie went to see about the insurance? A. Yes, sir.

Q. Now, at any time did she come to you when such conversation occurred? A. It was after Mr. Freeman's death.

Q. How long after? A. About a week or ten days.

Q. Was there any conversation then that took place between you about an assessment? A. Yes, sir.

Q. What assessment was it? A. An assessment that was ordered for the first month after he died. Of course, he being dead I didn't think of serving an assessment on him, but the rule of the Order is that persons that are in the Order on or before such a date are liable to the assessment. He was alive at the time that these persons died.

Q. So that according to the rule of the Order you assessed him? A. Yes, sir.

Q. Now, did substantially that conversation take place on that occasion that she testified to?

Mr. GOODRICH. I object.

FIELD, J. Do you admit the conversation?

Mr. STEVENS. The conversation went in, brought out in cross-examination, a portion of the cross-examination.

FIELD, J. How is any conversation between this witness and Miss Clough competent unless it was communicated to or in the presence of Mrs. Robinson?

Mr. STEVENS. It was brought out in cross-examination, and there appeared to be a discrepancy between this witness and Belle Clough.

FIELD, J. I understand this witness to testify, in substance, that after Mr. Freeman's death Belle Clough had a conversation with her on the subject.

Mr. STEVENS. Your Honor may remember when Belle Clough testified this morning, she said that she was sent there to see Mrs. Stanwood on Thursday evening and had the conversation with her. Mrs. Stanwood went on the stand and said she never had such a conversation at that time, but received word that Belle Clough had been there. I only want to show the fact that she had such a conversation.

Q. (By Mr. GOODRICH.) You had no conversation with Belle Clough until a week or ten days after Mr. Freeman's death? A. Never had seen her. She and Lizzie called at my house at that time, sent by Mrs. Robinson.

BELLE M. CLOUGH — *recalled.*

Q. (By Mr. STEVENS.) You remember testifying this morning, Miss Clough, that when you were sent by Mrs. Robinson with Lizzie on Thursday evening you had a conversation with Mrs. Stanwood?

A. Yes, sir.

Q. Do you want to change that now? A. I do.

Q. How? A. I should say it was a week after he died.

Q. How do you fix that fact now? A. Well, I went there quite a number of times after his death, and I got slightly mixed.

Cross-examination.

Q. (By Mr. GOODRICH.) You did not then before his death go to see Mrs. Stanwood or have any conversation with her whatever?

A. No, sir, but I did a number of times afterwards, about assessments.

Q. When you testified to that fact, you thought you remembered it, didn't you? A. Well, I have seen her so many times about assessments and insurances that I really —

Q. Didn't you undertake to tell the very night when you went? A. Yes, sir, I did.

Q. What made you undertake to tell the night you went? A. Well, I was up to Mrs. Robinson's either of those nights and I had been running round doing many errands at different places, and I suppose I got kind of confused; any one is liable to be confused, you know, a time like this.

Q. Did it occur to you that you had made any mistake in that particular until you heard Mrs. Stanwood testify? A. No, sir.

Q. And you have been seen, I presume, since you testified, in regard to what you testified, by somebody in behalf of the prosecution? A. No, sir, I have not.

Q. Hasn't any one spoken of it? A. No, sir. I spoke to Mr. Stevens myself and asked him if I could take the stand and rectify my mistake. He didn't make me hardly any answer, and passed on.

Q. Then in testifying that Mrs. Robinson sent you before Mr. Freeman's death to see Mrs. Stanwood about the insurance money, and in saying you did see Mrs. Stanwood and had an interview with her and stating what she said to you, in all that you made a mistake? A. It is all a mistake; in about a week the same conversation took place.

Q. (By Mr. STEVENS.) Do you mean that you did not go to see Mrs. Stanwood that Thursday night,— did not find her, or did not go? A. Did not go.

Q. Did you go to Mr. Stanwood's store? A. I went to Mrs.

Stanwood's, but when it was I can't say. I think I went to Mr. Stanwood's store twice.

Q. Do you remember whether or not you went on that Thursday night or about that time? A. I don't remember. No, I know I didn't.

Q. (By Mr. GOODRICH.) Where did you see Mrs. Stanwood, afterwards when you did see her? A. At her home.

GEORGE A. WILLARD — *sworn*.

Q. (By Mr. STEVENS.) What is your name, sir? A. George A. Willard.

Q. What is your business? A. Undertaker.

Q. You live where? A. South Boston.

Q. Were you the undertaker at the funeral of Mrs. Freeman? A. I was.

Q. Took charge of her body after she died? A. I did, sir.

Q. What did you do? A. I was sent down by my employer to take charge of the body, and carried a pan of ice with me. I went down to cool the body, and took the body off the bed, laid it on the cooling board and put the pan of ice on the chest,—or before that I inquired for Mr. Freeman and he was not there, and I asked some one, I don't know who it was, if I should be allowed to tap the body; it was swelled up considerably with gas, and I think it was Mrs. Robinson, but I won't be certain, told me to use my own judgment, do what I thought was best. I tapped the body and let off the gas, and the swelling went down. Before I tapped it there were indications of purging, and then I used the pan of ice, or I had a small quantity of embalming fluid with me, and my tools also, and I injected, I should think less than a pint, considerably less than a pint of embalming fluid.

Q. What is the ordinary amount? A. Oh, we use generally from three pints to two quarts, sometimes more than that.

Q. Do you know whether embalming fluid contains any arsenic? A. I don't know. I don't make it, but buy.

Q. Have you used several kinds? A. We have used several kinds.

Q. Where did you carry the body for burial? A. Garden Cemetery, Chelsea.

Q. Do you know in whose lot it was at that time deposited? A. I do not.

Q. Who was the superintendent of that lot? A. Mr. Litchfield, of the cemetery.

Q. Did he receive the body? A. He did.

Q. Did you see it afterwards? A. I didn't see it after burial.

Q. Was there a plate on the coffin? A. Yes, sir.

Q. It remained there? A. Yes, sir.

Q. What was on the plate? A. "Annie E. Freeman." Well, I can give the age,—I could tell you just what was on the plate. I have the returns here, a copy of it rather, "Annie E. Freeman. Died February 26th, 1885, aged 42 years, 11 months, 24 days." That was what was on the plate.

Cross-examination.

Q. (By Mr. GOODRICH.) You were the undertaker in this case? A. Yes, sir.

Q. Did Mr. Cole have anything to do with it? A. He did not, excepting to go with me and place the body in the casket.

Q. He was also an undertaker? A. He is and I am in his employ.

Q. Who was the undertaker on this occasion? A. Jabez B. Cole is the man I am employed by, but I am also a regularly appointed undertaker by the city of Boston.

Q. Who served as undertaker in this case? A. I did.

Q. You were employed? A. I am employed by Mr. Cole.

Q. What was Mr. Cole on this occasion? A. Nothing except you may say my assistant, happened to be on this occasion.

Q. You were in the employ of Mr. Cole and he acted as your assistant? A. On this occasion. He and I went together and placed the body in the casket. After that I had charge of the funeral. I had charge of the remains before the funeral.

Q. How happened you to take your tools up there for the purpose of embalming this body? A. I didn't take them with the intention of embalming.

Q. What did you take them for? A. I had them in my pocket, I had been on another case, but this fluid I carried with me on purpose to wet the face with.

Q. You don't know what kind of fluid it was? A. I couldn't tell you to save my life.

Q. What did you do with it? A. Why, I put some into a dish and wet the cloth with it and laid it over the face and then injected some into the body.

Q. Into what part of the body? A. Right in under the lower rib.

Q. What is the effect of the injection of such fluid into the body? A. It prevents the generation of gases and stops the purging.

Q. What else does it do? A. Well, it preserves the body.

Q. How does it preserve the body? A. That I can't tell you.

Q. Does it do it by penetrating? A. Yes, sir, by absorption.

Q. And is absorbed all over the body, into all the organs? A. Yes, sir.

Q. So that the whole body becomes saturated? A. It would if there was sufficient used. I don't think I used enough to penetrate the whole body.

Q. The system wouldn't reject it on account of its limited quantity? A. Oh, no, it wouldn't reject it.

Q. The whole pint would diffuse itself through the whole body? A. I didn't use a whole pint.

Q. How much did you use? A. I can't tell you. I had it in a pint bottle and there was not a bottle full.

Q. Did it contain arsenic? A. I can't tell what it did contain.

Q. What reasons have you for supposing it contained arsenic? A. I didn't say I had any reason.

Q. Have you any reason? A. Well, I have been told this embalming fluid, some of it, contains arsenic. I have been told there were other fluids which did not contain it.

Q. What did you suppose this contained? A. I don't know for I don't know what kind I used.

Q. Can't you tell by the appearance of it? A. No, sir, it all looks the same.

Q. Was it anything more than Fowler's solution? A. I couldn't say what it was.

Q. Stronger? A. There was no sediment to it, it is clear as can be. I have used fluid that I could see arsenic in it; that is, I could see sparkling particles in it.

Q. For embalming purposes? A. Yes, sir, but I know we didn't have that fluid at that time.

Q. That kind of fluid is quite commonly used? A. Yes, sir. It is an oriental fluid. You can take a bottle up and see it sparkle all through it when you shake it up.

Q. Did you shake up this bottle? A. I don't know, but I can tell you for a fact it was not that kind.

Q. What kind did you use? A. I told you I don't know what kind it was. I couldn't tell you, we have used it several times.

Q. Do you know whether there was any arsenic in it? A. I do not.

Q. Do you know whether you have ever had any embalming fluid that did not contain arsenic? A. I do not.

Q. What tends to preserve the body, as you understand it, after it is injected? A. Well, I think arsenic is a preservative.

Q. Did you ever hear of anything else? A. Yes, sir, I have heard of zinc.

Q. Where did this fluid come from? A. I don't know, sir. We had it come from New York and Springfield and from different places; some is made in Boston.

Q. Can you tell us whether the embalming fluid that contains arsenic, as you call it, is one that you commonly use in that business?

A. I don't know, sir. I have been told there was no arsenic in the one we commonly used. The man wouldn't tell what it is made of; I don't think he would.

Q. You don't think he would? A. No, sir, he would not. He has got a secret.

Q. You can't tell us whether this was the kind that had it? A. I can't tell you anything about whose make it was. I should be happy to. I have tried my best to get it in my mind what fluid I used, but I can't tell you to save my life.

Q. You can't think of any means by which you might be able to determine the question? A. I have tried every way that I could think of to find out what fluid it was that I used on that occasion, and I can't come to any conclusion about it.

Q. Couldn't think of what body that you embalmed last before that? A. No, sir, because I have embalmed—I won't say that I embalmed, but I think since then nearly a thousand cases. We average about three hundred a year. We could hardly be expected to remember every one.

Q. Have you found out since then whether the embalming fluid you used contained arsenic? A. I have not. I haven't asked the man that made it, and if I did he wouldn't tell me.

Q. I thought you said you used all sorts of means to find out what kind of fluid you used? Have you tried to do anything else than think about it? A. I have hunted the books through to see if I could find out whom we bought fluid of at that time. I have not asked any fluid maker.

Q. Have you tried to think what other bodies you embalmed about that time? A. No, sir.

Q. Why didn't you think of that? A. Well, probably I can find out as soon as I go back what bodies were embalmed at that time by looking on the books.

Q. Perhaps you can find out what the last body was you embalmed before this? A. I think so.

Q. It never occurred to you to do that, did it? A. I never supposed it had anything to do with this case, to show what fluid I used.

Q. Why not? A. I had no means to tell what fluid it was. Mr. Cole and I have both tried it and talked the matter over to see if we could tell what kind of fluid I used.

Q. Do you use one kind of fluid one day and then another kind the next day? A. No, sir. We use twenty gallons of one kind and then a drummer comes along and we buy a barrel of his and then we try somebody else's.

Q. Then the very same fluid that you used on the body of Mrs. Freeman was used on somebody before this? A. Yes, sir.

Q. And you haven't tried to find out what bodies those were? A. No, sir.

Q. And you have no doubt you could if you tried? A. Probably. I have puzzled my brains to see if I could find out.

WINSLOW A. LITCHFIELD — *sworn*.

Q. (By Mr. STEVENS.) What is your name? A. Winslow A. Litchfield.

Q. You are superintendent of Garden Cemetery at Chelsea? A. Yes, sir.

Q. How long have you been there? A. Been there fifteen years.

Q. When Mrs. Freeman was buried, did you receive her body and take care of it? A. Yes, sir.

Q. And bury it? A. I did.

Q. Whose lot was it buried in? A. I supposed I was burying of it in Mrs. Moses Freeman's lot.

Q. Mrs. Freeman's or Robinson's? A. Mrs. Robinson's.

Q. Did you afterwards take that body up? A. I did.

Q. When was that? A. Taken up November the 9th, 1886.

Q. Garden Cemetery, I believe I asked you, is in Chelsea? A. Yes, sir.

Q. What did you do with the body? A. Well, I gave it to —

Q. William E. Andrews? A. Some of Mr. Tinkham's men took it to the morgue.

Q. Do you remember the name? A. I don't.

Q. Would you know him if you saw him? A. I think I should.

[Mr. Andrews was asked to step forward, but he was not present.]

DR. FRANCIS A. HARRIS — *sworn*.

Q. (By Mr. STEVENS.) Francis A. Harris? A. Francis A. Harris.

Q. You are medical examiner of Suffolk County? A. I am.

Q. In the month of September did you receive the body of Mrs. Freeman from Mr. Andrews? A. I did.

Mr. GOODRICH. One moment.

Mr. STEVENS. I shall show by Mr. Andrews, who inadvertently is not here at this moment, as soon as he comes here I shall put him on, — I shall connect it hereafter, there is not the slightest doubt about it, Mr. Andrews took the body and carried it to Dr. Harris.

Mr. GOODRICH. It might not be necessary to examine the doctor at all if we had Mr. Andrews' testimony, if it went in in its order.

FIELD, J. Ordinarily, of course, in a question of order of proof I

should not hesitate to let it go in, on the assurance of counsel that he will connect it.

Mr. STEVENS. Go on, doctor. A. On the 9th of November, 1886, I received a body from Mr. Andrews in a casket.

Q. What was on the casket? A. A plate bearing the name of Annie E. Freeman, who died in February, 1885, aged 42 years, — and after removing the body from the receptacle, I proceeded to make as much of a *post mortem* examination as was possible, and I found the body mummified, very much dried, and the internals very much decomposed and shrunken and withered, and so changed that it was impossible to form an accurate medical opinion as to any changes that had taken place during life. The organs I removed, and I placed them in a carefully cleaned jar and kept them in my possession until the following day, when I delivered them to Prof. William B. Hills of Harvard College.

Cross-examination.

Q. (By Mr. GOODRICH.) This was on the 9th of November? A. On the 9th of November.

Q. Was any representative of Mrs. Robinson, so far as you know, notified to be present at the autopsy? A. No, sir; not so far as I know.

Q. She was at that time under arrest, as you understand it? A. It is my impression, but I can't testify positively.

Q. Was any one present when you made this disposition of the body? A. This examination?

Q. Yes. A. Yes, sir.

Q. Who? A. Dr. Durell, medical examiner of Somerville, and Dr. George Stedman, associate medical examiner for Suffolk County, Prof. William B. Hills, and Mr. Frederick L. Briggs, the foreman of Mr. Tinkham's undertaking establishment in Boston.

Q. Were the remains in such a state as to be possible to make any examination of them? A. They were.

Q. Impossible to determine whether any natural causes had to do with her death? A. They were.

Q. Could you tell whether the appearance of the body was consistent with its having been embalmed with a solution of arsenic? A. Well, it is a pretty difficult question to answer, but I didn't see any inconsistency with its being embalmed with arsenic or some preservative fluid. I wouldn't limit it to arsenic.

Q. It presented a similar appearance to what a body would if embalmed with arsenic? A. I have not made an examination of a body at any considerable period after death that has been embalmed. I have made examinations immediately after death. The appearances in this case were not such as —

Q. This dried and mummified appearance would be ascribed to some preservative? A. It might be accounted for by the disposition of the body in such a way that the soil would absorb the fluids, and might tend to give it that dried and mummified appearance.

Q. Can you, as medical examiner, on your experience tell us what the ordinary and usual effect of embalming fluids is upon a body? A. Well, in those cases I have seen it, it shrivels and hardens the organs, toughens them so they are rather of the consistency of india rubber than their natural condition internally.

Q. And you saw in this body no indications that would be inconsistent in its having been embalmed in that way? A. No, sir; I suppose they would decompose in time under any conditions.

Q. In other words, you couldn't say from the appearance of the body whether it had actually been embalmed or not? A. No, sir.

PROF. WILLIAM B. HILLS — *sworn*.

Q. (By Mr. STEVENS.) You are instructor of chemistry in the Harvard Medical School? A. I am assistant professor in chemistry.

Q. The organs of Annie Freeman were delivered you, were they? A. They were, on the 10th of November, 1886.

Q. What did you receive? A. I received the organs in four jars. One contained the brains, the second contained the heart and lungs and liver, the third the stomach, kidneys and spleen, the fourth the intestines and contents.

Q. From whom? A. Reported to be the body of Annie Freeman.

Q. Who was it gave them to you? A. From Dr. Harris, medical examiner.

Q. Did you make an examination of it? A. I did.

Q. With what result? A. The detection of arsenic and mercury.

Q. In what quantity did you find arsenic? A. I had not made a quantitative estimate, but I should judge the amount was very large.

Q. How many grains should you say? A. I should hesitate to express an opinion.

Q. You said "very large"? A. That is, relatively large for cases of arsenical poison, — in some organs, in the liver, 3.25 grains.

Q. Suppose that arsenic had been received before death, whether it would have been fatal? A. It would ordinarily.

Q. Provided she received that into her body before she died, is it your opinion she died from arsenic? A. Yes, sir, considering the symptoms which I have heard.

Q. And you have heard the symptoms as they were described by the attending physician? A. Yes, sir.

Q. Are those such as you find in arsenical poisoning? A. They are consistent with those produced by arsenic, the later symptoms.

Q. Assuming those symptoms to have existed, having found that quantity of arsenic in the organs, are you able to form an opinion as to the cause of her death? A. If the case was uncomplicated I could easily form an opinion and should form an opinion.

Q. Well, I will ask you to answer my question as I put it, if you can form an opinion, assuming the conditions to have existed that were ascribed.

FIELD, J. You better put your question hypothetically.

Q. Assuming Mrs. Freeman had pneumonia, the symptoms had disappeared, were under control, and then new symptoms set in, that she had diarrhoea and headache, burning sensation in the throat and stomach, with pain in her stomach, with vomit, and she had died afterwards, and you had found in the organs the amount of arsenic you found in her organs, should you be of the opinion that she died from arsenical poison? A. I should, in the case as you have stated it.

Cross-examination.

Q. (By Mr. GOODRICH.) You assume, I suppose, that the arsenic found in the system in that case would have been received into the system during life? A. Yes, sir.

Q. Assuming that it appeared that upon the death of Mrs. Freeman a quantity, say a pint, of some preservative or embalming fluid had been injected into the body, and that it was not known whether the fluid contained arsenic or not, would that qualify your opinion? A. Yes, sir, it would, because I should not be able to say that such person positively died of arsenic. All that I could say under those circumstances would be this, the symptoms would be consistent with death by arsenic, but I should not under those circumstances draw any conclusion from the medical analysis.

Q. Would it be safe to draw any conclusion whatever from a medical analysis, or from the presence of arsenic in the body, if it appeared that the body had been treated with an embalming or preservative fluid, which might have contained arsenic? A. I think not.

Q. What was the reason, doctor, that you did not proceed to make a quantitative analysis? A. The reasons were these: Shortly after receiving the organs from Dr. Harris, I made an analysis of a portion of the liver, and I found in that arsenic and nothing else, and I reported the presence of arsenic in the organs of Annie Freeman. Sometime later during the last fall I received orders from the district-attorney's office to make an estimation of the quantity of arsenic in the various organs. In the course of that investigation I found out that the organs contained in addition to the arsenic some preparation of mercury, some compound of mercury, and I found also that the

remaining portion of the liver, which I did not originally examine, contained not only arsenic but mercury, that is, mercury was unequally distributed in the liver, — one portion contained it and one did not. That was proof to me that mercury must have been placed there after death. It could not have been taken before death because if it had been it would have been crystallized, uniformly distributed through the liver. Under those circumstances, knowing that embalming fluids frequently contained mercury, knowing that they also contained arsenic, and finding both mercury and arsenic in this case, the mercury being unevenly distributed through a single organ, I was led irresistibly to the conclusion that mercury must at any rate have been received after death, and I could not say that the arsenic had not been. At any rate it would be useless to proceed with the examination because no conclusion could be drawn from it.

Q. You threw up the investigation because chemical analysis could throw no light upon the question? A. Yes, sir.

Q. And if you had known in the first place that the body had been embalmed, would you have considered it of any use to proceed? A. I should not. I should advise that no further investigation be made.

Q. And for what reason? A. Because I know that, ordinarily, embalming fluids contain arsenic, the substance under investigation.

Q. Ordinarily they do? A. Ordinarily, so far as my experience goes.

Q. And the effect of the introduction of arsenic into the corpus is to diffuse and disseminate itself through the different organs? A. It does, slowly.

Q. You say that, ordinarily, embalming fluids do contain arsenic? A. Yes, sir.

Q. Commonly? A. All that I have ever examined have contained arsenic.

Q. You have no knowledge of any other preservative fluid used by undertakers except those containing arsenic? A. My experience is limited. I have examined three or four, all of them contained arsenic and corrosive sublimes.

Q. (By FIELD, J.) The corrosive sublimate contains mercury? A. Yes, sir.

SUSAN S. MARSHALL — *recalled*.

Q. (By Mr. STEVENS.) Mrs. Marshall, did you testify how many years you had known Mrs. Robinson? A. From the fall of 1874 or spring of 1875, I don't know which.

Q. And you said you had received a letter from her asking you to come over to Mrs. Freeman's while Mrs. Freeman was sick? A. I did.

Q. What day did you say it was when you first arrived there?
A. On the 25th of February.

Q. Did Mrs. Robinson tell you then how long the nurse had been gone? A. No, sir.

Q. And you stayed how long that day? A. Until about five o'clock.

Q. You may commence now and tell us what you saw of her symptoms and sickness, what you saw Mrs. Robinson do and what Mrs. Robinson said about her. A. When I first entered the apartment, Mrs. Robinson said, "I am so glad you have come. I want you to stay and take care of my sister," or "of Anna, and let me go to my home. Lizzie has the care of her two little ones and they are on this floor. I feel I must go home. I have stayed as long as I can." And I said, "Well," I don't know whether I said "Sarah" or "Mrs. Robinson," but I think very likely I said, "Sarah, you mustn't make any dependence on my staying nights, I can't do it. I will come over and do anything to assist you in the affairs of the day, but I can't sit up nights. My health is feeble and I don't feel competent to the task." And she said, "Well, it didn't make any difference; Ann has been calling for you a great many times and she won't be satisfied, and I should think you might stay a little while." And I said, "I can't, that is imperative"; so there was no further solicitation on that point made to me. I stayed during the day. I then went into the sick room and saw Mrs. Freeman. She greeted me very kindly, seemed very glad to think I had come, but could say but very little, for she was a very sick woman.

Q. What did you notice about her? A. I noticed that her features were very much swollen or bloated, that she was discolored; she didn't look like a person with any ordinary natural sickness. She was changed. She was of a dark hue.

Q. You had been a nurse, had you not? A. I had; and I immediately passed through the room to the kitchen where her sister was, and I said, "Don't say anything against her." She had in the first place remarked that she was fretty or tired, and she wouldn't wait upon her any longer; and I said, "Don't made any such remark as that, for you will regret it. I don't think Ann will live for any length of time," and she then spoke of her—

Q. Let me interrupt you, what day of the month do you say this was? A. On the 25th.

Q. She died on the 26th? A. She died on the 27th.

Q. Very well. Go on and state what she said. A. So I remained there through the day. There didn't seem to be a great deal for me to do. I assisted round the sick bed some with the patient, and waited upon her, and changed her bed and did a few such necessities to be done, and Mrs. Robinson seemed to attend to the other duties wholly.

Q. Was Dr. Beers over that day? A. No, sir, I didn't see Dr. Beers at that time.

Q. Now, did you go there again? A. I went the next morning between nine and ten.

Q. How long did you stay? A. Somewhere between four and five, somewhere from half-past four to half-past five when I left, I wouldn't state the moment. The patient didn't seem any better that day, but apparently weaker.

Q. Complain of any pains? A. She did.

Q. Where? A. A burning pain in her stomach and severe headache. She wanted ice and ice-cream and everything that was cold.

Q. Nausea to her stomach? A. Slight nausea, not much in my presence. She had considerable ice-cream that they had in the family that day, I noticed, and she asked me before I left the house that night to bring her some the next morning when I came. That day I saw Dr. Beers there.

Q. What was he there for, if you know? A. I can't tell you what he was there for, but when he came in he reached to Mrs. Robinson what I naturally supposed was a bottle, as it was done up in a paper like any pint bottle, about the size of any ordinary pint bottle that you would go to the store to buy. It was a round bottle with a long neck like any common wine bottle. It was done up in a newspaper, and he says to Mrs. Robinson, "You will find that strictly pure."

Q. Was Mrs. Freeman using wine at that time? A. I don't know.

Q. Or whiskey? A. I don't know.

Q. What did Mrs. Robinson say when Dr. Beers handed it to her? A. I don't think she made any reply to it at all, only turned and set it upon a shelf; I don't recollect of any reply.

Q. You didn't see that, I suppose, afterwards? A. I did not.

Q. Now, did anything happen that day? A. Yes, sir; Dr. Davison had been in previous to Dr. Beers' coming, and had left a prescription. Mrs. Robinson remarked, "I haven't the money to have that prescription filled now." I didn't make much of any reply to that, but concluded the money would be forthcoming soon, she would be apt to find it some way for sickness, and after a while the doctor was there; I passed into the kitchen again, and she was talking with him, in rather close proximity to him, and after he had left she says, "Now I have the money to have the prescription filled." Whether she had it filled or not I don't know. I wasn't sent for it nor requested to go.

Q. Did you go there again after that day? A. I did. I went the next morning. I promised to take Mrs. Freeman some ice-cream. She requested me to come early. I told her I would, as early as I

could, but I was very much inconvenienced that morning, and did not leave even as early as usual, and thinking the patient was very sick the thought came across me that "perhaps she never will want the ice-cream," and I did not detain myself to go down town and get it, but I pursued the method of going directly to the house, and when I went upstairs I met Mrs. Robinson and Mr. Freeman. Mrs. Robinson remarks to her brother-in-law, she says, "It seems, Prince, as though Anna will not live to see her, doesn't it?" He replied, "Well, it does," and I said, "Be quiet. Don't let her know I am here, because I promised to get her some cream. I will let you take this money and get some." This was to her husband. He took the money and went out and got some cream in a pail and reached it to Mrs. Robinson. She took some out in a saucer and gave it to him to go into the room with it. I went in and bade Mrs. Freeman good-morning, saying, "Well, Ann, I have come, and here is your cream." She says, "I don't want it now. Why didn't you come before?" Well, I told her what my hindrances were and that it was impossible for me to come there, and she didn't want it now, and I passed it out to her sister with the remark, "You take it. Perhaps she will take some from you by and by," and I stayed in the room with the sick one five or ten minutes, then I left and went out as she was trying to go to sleep. Along some hour or two after that Mrs. Robinson took some cream in a saucer and carried it to her. I couldn't say that she ate it. I don't know. I only saw her go into the room with the cream in a saucer. She came out with it empty and said her sister had eaten it, and upon coming out she put the saucer into the sink, and said, "Ann wants some of that wine." I said, "What wine?" She said, "The lady downstairs offered to give her all the wine she wanted while she was sick," and I said, "Well, let me take a cup and go down and get some." She said, "No, I will go. I will go." Well, she preferred to go, so I made no objection, said nothing further. She took a cup and went down. I was seated by a stove in the kitchen. She came up and walked past the stove into the room to the sick person. I heard a swallowing as denoted by a person with an empty stomach and sick, as we would naturally say a gulping sound, hollow, which indicated to me that she was drinking the wine, although I couldn't see it, or drinking something which purported to be wine. Mrs. Robinson then came out with the cup and set it down in the sink, at the same time taking both hands and saying, "You should have seen how voraciously she drank that wine, drained it to the dregs," and at the conclusion of her sentence we heard a gurgling sound and she passed back into the room by the bedside of her sister, and it was the death gurgle. She then called, "Anna is dying! Come in."

Cross-examination.

Q. (By Mr. GOODRICH.) You were there in all how many times?
A. Three.

Q. You remained a considerable part of the day? A. Yes, sir, from nine and ten until about five.

Q. Dr. Beers was there only on one occasion? A. I saw him there twice.

Q. How long did he remain on each occasion? A. Well, on the second time, the day of the death, I shouldn't think he was there more than seven or eight minutes.

Q. That is the occasion when he brought the bottle? A. No, the second day that I was there he brought the bottle and gave her the money for the prescription.

Q. Did you have any conversation with him the second day?
A. I did not.

Q. Do you know for what purpose he came? A. I do not. I did not speak to him in the house at all.

Mrs. MARY J. WRIGHT — recalled.

Q. (By Mr. STEVENS.) When Mrs. Robinson came there was Mr. Freeman taking care of his wife, or assisting in taking care of her? A. Assisting the nurse.

Q. What did Mrs. Robinson say to him about not staying there to help her? A. She prevented in every way his being in the room with his wife.

Mr. GOODRICH. That is not responsive.

Q. What did Mrs. Robinson say to him about not staying there to help her?

FIELD, J. Anything to Mr. Freeman. You may state whether she did or did not say anything to Mr. Freeman about that subject.
A. I don't quite understand.

Q. I want to know if you heard any conversation between Mr. Freeman and Mrs. Robinson as to whether he should go away to work or stay at home with his wife? A. Yes, sir.

Q. What was it? A. It was the day she died.

Q. (By FIELD, J.) I think your family occupied the lower tenement? A. Yes, sir.

Q. (By FIELD, J.) And theirs was the upper tenement, and there was a middle tenement between? A. Yes, sir.

Q. I will make my question a little broader. Did you hear any conversation at any time? Perhaps I don't make myself clear to you. Did you hear Mrs. Robinson say anything to Mr. Freeman at any time about going away from home while his wife was sick?

A. No, only when he wanted to stay at home she said they were better without him, he better go to work, and another day his wife was very ill, he thought he better stay there, he thought she might die before he got back. She said, no, they would get along very well without him, and the day that she died, that morning, she insisted on him going to work. He came down to me and said, "Mrs. Wright, what would you do?"

• [Objected to.]

Q. Did you communicate that to Mrs. Robinson afterwards?

A. That I told him to stay at home?

Q. Yes? A. Yes.

Q. That you may state. A. I told him I thought it was necessary for him to stay at home, his wife was very ill. He said —

MR. GOODRICH. Never mind what he said.

FIELD, J. You may state anything that he said that you subsequently told Mrs. Robinson, but you cannot state what he said to you or you to him unless in the presence of Mrs. Robinson, or you subsequently told it to her.

WITNESS. I can't see how I can explain myself.

MR. STEVENS. You can repeat any conversation that you had with Prince Arthur Freeman that you afterwards told Mrs. Robinson.

WITNESS. I told Mrs. Robinson that Freeman said that she didn't wish him to stop at home, and that I thought that he had better stay at home, and he stayed at home, and when she see that he insisted upon staying at home, she sent him of errands, kept him away from the presence of his wife, and about half-past eleven that day,— at any rate in the meantime Mrs. Robinson had been down home in the morning; she said, "Mrs. Wright, if Ann should die, do you know of any underclothes, good underclothes that would be likely to be used in such a case?" And I told her that at the time her little child was born that she had a trunk with some underclothes in, and she said if anything was to happen to her I was to tell her, and I told her there was enough nice clothing there, and she made that an excuse to go over to Mr. Wagner's and get a white skirt, and he was away at the time Mrs. Freeman died.

Q. She got some wine from you that day? A. Yes, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) She sent him away to keep him away from his wife — do you know it was? A. Yes, sir.

Q. How do you know? A. Mr. Freeman said so. She didn't want him round his wife. I see from the actions myself.

Q. She sent him away to keep him away from her? A. Yes, sir.

Q. Did you have any trouble with Mrs. Robinson? A. No, sir.

Q. She made excuses of different sorts for the purpose of keeping him out of the house? A. Yes, sir.

Mrs. KATE Y. BARKER — *sworn*.

Q. (By Mr. STEVENS.) What is your full name? A. Kate Y. Barker.

Q. You lived in 1885 in South Boston? A. Yes, sir.

Q. You are a member of the same church with Mrs. Freeman? A. Yes, sir.

Q. You were there during her last sickness? A. Yes, sir.

Q. Took care or helped take care of her nights? A. Yes, sir.

Q. How many times after Mrs. Robinson came there? A. Twice.

Q. What were her symptoms? A. Well, during the first part of her sickness, the first time I went she had diarrhœa a considerable time, and she complained continually of thirst, and was very sick indeed.

Q. How long was that after Mrs. Robinson came? A. That was before Mrs. Robinson came that I first went.

Q. (By FIELD, J.) Let me understand you. The symptoms you have just described, were they or were they not observed by you before Mrs. Robinson came there? A. Those were before Mrs. Robinson came there.

Q. (By Mr. STEVENS.) Now, after Mrs. Robinson came, what did you observe? A. Well, she had considerable diarrhœa for a while after Mrs. Robinson came there and still vomited, and continually complained of this thirst and severe headache.

Q. (By FIELD, J.) I don't understand. Describe the symptoms you saw before Mrs. Robinson came? A. Well, I don't know as I positively can.

Q. You have described them once in general terms. I want to take down what you said. A. She had severe diarrhœa in the first of it and vomited, and complained much of her head. I don't remember so much about the first of her sickness as it was the latter part of the time.

Q. (By Mr. STEVENS.) Did you have any conversation with Mrs. Robinson about using your influence to have Prince Arthur go to live with her? A. Yes, sir.

Q. What was it? A. She asked me if I didn't think the best place for him and his children, also, after Mrs. Freeman should die would be with her, as she was the aunt, and of course thought more of them, and she said Mr. Barnes wanted the oldest boy but she thought it wasn't best to separate the children, but to have the father

and children to go with her, and if I had any influence with Mr. Freeman if I wouldn't use it to that effect.

Q. She said Mr. Barnes wanted to take the boy? A. Yes, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) What answer did you make to her when she asked you if you didn't think it was the best place for the children? A. I said, of course I didn't know anything about the children, but it seemed quite natural that she should want them.

Q. It seemed quite natural to you that her plan was a good one? A. It did at that time, yes, sir.

Q. For how many days before Mrs. Robinson came had you observed these symptoms in Mrs. Freeman, — for a week? A. I don't remember just how many days. The first time I went was Monday following the day she was taken sick Sunday. Then Mrs. Randall was taking care of her. She was very sick indeed, then, but she afterwards improved, and we thought was getting better. That was after Mrs. Robinson came that we thought so, just a day or two before she died.

Q. Did you have any conversation with Mr. Freeman in regard to going to live with Mrs. Robinson? A. No, sir, I did not, not until after Mrs. Freeman was buried. Then he spoke to me about it.

Q. Did you have conversation with him then in regard to it? A. Some little. I didn't have much with him. I went in the day after the funeral and he and Mrs. Robinson were sitting there together.

Q. Did he express then any indication about going to Mrs. Robinson's? A. He said, under the circumstances, he supposed he would have to.

BENJAMIN F. WYETH — *sworn.*

Q. (By Mr. STEVENS.) What is your name? A. Benjamin F. Wyeth.

Q. You live where? A. Old Cambridge.

Q. You are an undertaker? A. Yes, sir.

Q. And you were the undertaker at the funeral of Prince Arthur Freeman? A. I was.

Q. What did you do with the body? A. We made the proper preparation for burial, and had the funeral and buried him.

Q. Where did you carry the body to? A. Chelsea, Garden Cemetery.

Q. Are you the person who took the body yourself to Chelsea? A. I am.

Q. To whom did you deliver it there? A. Delivered it to Mr. Litchfield, the superintendent.

- Q. The witness who testified? A. Yes, sir.
Q. Was there a plate on the casket? A. There was.
Q. What was it? A. I don't recollect, sir, now.
Q. Did you use any embalming fluid? A. I did not.

Cross-examination.

Q. (By Mr. GOODRICH.) You gave the matter your personal attention from beginning to end? A. I did, sir.

Q. Do you know whether any one else had anything to do in the way of preparing the body for burial except yourself? A. Nothing except shaving. I think that Andrews shaved him. That is all.

Q. So far as you know no one else did anything with the body? A. No, sir.

Q. Let me ask you, Mr. Wyeth, do you sometimes embalm bodies? A. We do. I don't do it myself. I employ a man to do it.

Q. What is the ordinary fluid which is used for that purpose? A. Well, sir, I don't know, I don't have anything to do with it. I get a man to do it and I don't know anything about it. They get their own fluids. I don't know what it is composed of.

Q. It isn't a matter of common knowledge among undertakers what it is composed of? A. I think not.

Q. Something which tends to preserve the body, as you understand it? A. Yes, sir.

Q. Do you know whether there are many varieties of it or there is one common substance which is generally used? A. I don't know. There are several different kinds, under different names. But what the composition is I don't know.

Q. Whether they differ in composition you don't know? A. I don't know.

WINSLOW A. LITCHFIELD — *recalled.*

Q. (By Mr. STEVENS.) Did you, Mr. Litchfield, receive the body of Mr. Prince Arthur Freeman from Mr. Wyeth, the undertaker? A. Yes, sir.

Q. When? A. [Referring to paper.] February 30th, 18—

Q. No, I am talking about Prince Arthur, Mrs. Freeman's husband? A. June 30th, 1885.

Q. What did you do with it? A. I buried it.

Q. Was there a plate on the casket? A. I don't know nothing about the plate.

Q. Where did you bury the body? A. Buried it in the Robinson lot.

Q. Did you afterwards take it up? A. I did.

Q. When? A. [Witness looked over his memoranda, but made no answer.]

Q. That was in September, 1886, was it? A. I haven't got the time down on my paper here.

Q. Is it here in the court room, your memorandum of the time, — in the court house? A. I don't know.

Q. I mean, have you a memorandum anywhere in the court house? A. No, sir, I have not.

FIELD, J. He gave the time that he took up the other body.

MR. STEVENS. But I want the time he took up this body. He don't know that.

Q. Did you at any time take it up? A. I did dig it up.

Q. Do you remember now about when it was? I don't care about the particular date. A. I should think it was some time in February or March.

Q. (By FIELD, J.) What year, sir? A. 1886.

Q. (By MR. STEVENS.) Was it in September?

[Objected to.]

MR. STEVENS. Well, it is a simple matter about which we can find out without the slightest difficulty.

Q. How do you fix it about February or March? A. I think it was the latter part of the winter.

Q. Now, I am talking about the body of Prince Arthur. You have taken up a good many bodies there? A. Yes, sir, I took them pretty much all up. I buried them pretty much all.

Q. Do you remember when Mrs. Robinson was arrested? A. Yes, I don't remember the date.

Q. But you remember the fact? A. I remember the time.

Q. Assuming that to have been in August, 1886, how long after that date should you think you took up the body of Prince Arthur Freeman? A. I should think it might be three or four months, I couldn't tell.

Q. You have no definite recollection about it? A. I don't think I have.

Q. Have you a memorandum of the time you took that up anywhere? A. I thought I had it with me.

Q. Well, you may look a little further, sir. A. [After examining memoranda.] I haven't got it.

Q. Have you it at home? A. I have.

Q. You may bring it over with you to-morrow morning. Now, what did you do with the body when you took it up? A. I delivered it to Mr. Tinkham's man or Mr. Andrews, I think it was, Mr. Tinkham's man there.

Q. Do you know what he did with it? A. He brought it over to the Grove Street morgue, I think he said.

Q. To Dr. Harris, the medical examiner? A. Yes, sir.

Q. (By FIELD, J.) Did you go? A. No, sir, I did not.

FIELD, J. That is hearsay, then?

MR. STEVENS. That is all, sir. You will have that memorandum with you to-morrow morning.

DR. GEORGE STEDMAN — *sworn*.

Q. (By Mr. STEVENS.) What is your full name? A. George Stedman.

Q. You are one of the medical examiners in Suffolk County? A. Associate medical examiner.

Q. Did you receive a body from Mr. Andrews in the month of September, 1886? A. I did.

Q. Purporting to be the body of Mr. Prince Arthur Freeman? From whom did you receive it? A. From Mr. Andrews.

Q. William E. Andrews? A. William E. Andrews.

Q. Did you make the autopsy? A. I did.

Q. You may state what the result of the autopsy was and what you did.

Q. (By FIELD, J.) When did you receive it? A. Sept. 28th, 1886. The body was that of an adult, male adult, very much dried up and shrunken, in fact mummified. Upon dissection the organs were found to be so far decomposed and dried up that no opinion could be formed as to any diseased condition of the organs. They were all taken out and delivered to Professor Hills of Harvard College, he being present at the time as one of the witnesses.

Q. You delivered that to him? A. I did.

Q. There? A. There.

Q. And I suppose your connection with the case ceased then? A. Yes, sir.

Q. Unless I ask you what the mummification of the body would indicate, if anything? A. Well, it is hard to say exactly what it would indicate. It was buried in sandy soil. That would tend to absorb the moisture and prevent to a certain extent rotting, the real decomposition.

Q. Suppose a large quantity of embalming fluid was found in the body, would that explain it? A. Not necessarily. That might assist in producing that appearance.

Cross-examination.

Q. (By Mr. GOODRICH.) Was the appearance consistent of that of a body which had been embalmed with some preservative fluid? A. Yes, sir.

Q Where was this body delivered to you? A. At the morgue on North Grove Street.

Q. You were not present at the exhuming of the body? A. I was not.

PROF. WILLIAM B. HILLS — *recalled*.

Q. (By Mr. STEVENS.) You heard the testimony of the last witness? A. Yes, sir.

Q. Who testified that he gave the organs of the body purporting to be of Prince Arthur Freeman to you? A. Yes, sir.

Q. When was that? A. That was on the 28th of September, 1886.

Q. What organs did you receive? A. I received the liver, the brain, the two kidneys, the spleen, stomach, intestines and heart.

Q. What did you do with them? A. I carried them to my laboratory at the Harvard Medical School on Boylston Street.

Q. What in? A. In glass jars, each organ in a separate jar.

Q. And you made an analysis, did you? A. I made a chemical analysis.

Q. Quantitative analysis? A. Yes, sir. The organs were soft and somewhat shrunken and partially decomposed so that it was not possible to form any opinion from their appearance as regards any morbid processes. I proceeded directly, therefore, with the chemical analysis, commencing that upon the next day. I presume you would like a short description of the process.

Q. You may state the result of that. A. The first step in such analysis is always to destroy so far as possible the organic matter of which the organic tissues are composed. For that purpose the organs are cut up fine and there is added to them a certain amount of distilled water and some concentrated pure hydrochloric acid, and the mixture thus obtained is warmed with the occasional addition of crystals of potassium chlorate which breaks up the tissue, and so far destroys the organic matter that a poison can be separated from it in a state of tolerable purity. After the organic matter has been thus destroyed the mixture is strained through porous paper, and the solution which now contains the arsenic or any other metallic poison, if present, is warmed until the gases and chlorate are driven off, and then it is customary to add a certain amount of sulphurous acid in order to reduce the arsenic, if any should happen to be present, to a form in which it can be more readily separated from the fluid. Having carried out that step the arsenic is then separated from the solution, together with certain other metallic poisons, if they should happen to be present, by conducting into that fluid a slow stream of sulphuretted hydrogen gas. This has the property of separating arsenic and other metals in an insoluble form. This gas is con-

ducted through the solution for about twelve hours. The solution is again strained through porous paper, the arsenic together with any other metals, if present, being left upon the paper. That insoluble substance containing arsenic, if present, is then thoroughly washed with pure distilled water, and then treated upon the paper with a mixture of pure ammonia and ammonium sulphide. The arsenic, if any happens to be present, is thus separated. The solution is then warmed until all the liquid has been expelled, and we thus get a residue which contains arsenic in the form of sulphide of arsenic, usually with more or less, in fact always in such cases with more or less, organic matter. The first step now is to finish up, to complete the destruction of the organic matter. The residue is treated with nitric acid usually, at any rate that is what I treated it with, and heated until it becomes dry again. This process is repeated once or twice, and finally it is treated with a little pure hydrochloric acid and potassium chlorate, and then is heated until we get a dry residue. This completes the destruction of the organic matter. The arsenic is all left in the residue. Then that is dissolved in a measured quantity of pure distilled water, — one hundred cubic centimetres is the amount we took, — and we thus obtain a perfectly clear colorless solution which contains arsenic, if present, entirely free from organic matters. On that solution we perform various tests to determine whether arsenic is present or not. For this purpose a certain portion of that clear solution is added to a flask in which hydrogen gas is being generated by the action of pure sulphuric acid upon pure zinc. The arsenic under those circumstances unites with the hydrogen to form arseniuretted hydrogen, and by the properties of that gas we recognize arsenic as it passes through a small glass tube; for if that tube is heated by means of a gas burner placed beneath it, the arseniuretted hydrogen is broken up into hydrogen and arsenic in the form of metallic arsenic, and the latter is deposited about half an inch in front of where the flame was in the form of this black brownish mirror as we call it, and we obtained from the liver of Prince Arthur Freeman what is contained in these bottles and in all these tubes.

Q. How much in quantity? A. The amount of arsenic I obtained from the liver was 1.91 grains of white arsenic; the total weight of the liver being 12.9 ounces. The stomach weighed 2 ounces; the amount of arsenic was equivalent to .43 of a grain of white arsenic. The kidneys weighed 1.77 ounces; the amount of arsenic present was equivalent to .11 of a grain. The spleen weighed 1.8 ounces; the amount of arsenic was equivalent to .05 of a grain of white arsenic. The intestines weighed 8.12 ounces; the amount of arsenic was the equivalent of .07 of a grain of white arsenic. The heart weighed 1.32

ounces; the amount of arsenic equivalent to .045 of a grain of white arsenic. The brain weighed 7.34 ounces; the arsenic equivalent to .045 of a grain of white arsenic. The total amount of arsenic estimated as white arsenic in all the organs amounted to 2.66 grains.

Q. Now, you mean to say by your process of analysis you found all the arsenic there was in those organs which you had? A. There might have been a trifling loss; this is practically all.

Q. I don't suppose you mean to say the arsenic in the whole body was contained in those organs? A. No, sir; the arsenic was undoubtedly distributed throughout the body.

Q. What is a fatal dose of arsenic? A. About two or three grains.

Q. You can't form an opinion from what you found in these organs how much was distributed through the body? A. No, sir.

Q. From that analysis could you form an opinion as to what caused the death of Prince Arthur Freeman, provided he received that into his system before death? A. Without knowing anything of the symptoms?

Q. Well, I said provided he received it before death? A. It indicates he received a fatal dose of some compound of arsenic.

Q. Suppose he was taken sick on Monday with vomiting, and remained sick until Saturday night, headache, vomiting, the diarrhoea, great thirst, burning sensation in his abdomen, with his symptoms continuing from Monday until Saturday night, would you be able to form an opinion from your analysis as to the cause of his death? A. My opinion would be, the cause of his death was from a poisonous dose of some preparation of arsenic.

Cross-examination.

Q. (By Mr. GOODRICH.) You saw nothing to indicate how this arsenic had been received into the system? A. No, sir.

Q. You couldn't tell whether it had been received by respiration or by absorption through the skin or into the stomach? A. I could not.

Q. The arsenic which you found in his stomach, you couldn't tell whether it was found on the inner surface or the outer surface, or any place in the tissues? A. No, sir; I could not. I made a careful examination of the interior of the stomach and found no evidence of any arsenic. The stomach was partially decomposed, two or three holes in it from the process of decay.

Q. The arsenic apparently had been diffused through the system by the circulation? A. Apparently.

Q. Can arsenic be readily taken into the system by inspiration through the lungs? It can in the form of vapor? A. Yes, sir. Any exposure to vapors of white arsenic or gaseous compounds of

arsenic of course results in various quantities absorbed through the mucous membrane of the lungs.

Q. And it would be impossible for you, upon a *post mortem* examination such as you made, to determine how it had been received into the system? A. I don't see how it could be stated.

Q. Is arsenic extensively diffused in nature? A. Quite so.

Q. Is it found in combination with various other minerals? A. Found in connection with certain minerals, yes, sir.

Q. Will you state with what minerals it is generally found in connection? A. It is found in connection with the ores of bismuth almost invariably. It is found in connection with ores of cobalt and nickel, some rare metals. It is found in ores of tin, very frequently traces in ores of iron. Those are perhaps the more common ones.

Q. Is it generally found in combination with crude sulphuric acid? A. It is frequently present in crude commercial sulphuric acid. It used to be a few years ago. In recent years I have not had much to do with the crude coarse grades. I think very frequently they contain it.

Q. As used in manufactures the presence of the arsenic would not injure the quality of the sulphuric acid at all? A. No, sir; not for ordinary purposes for which it is used.

Q. It is found in iron pyrites? A. Yes, sir.

Q. And in castings of iron and steel, is the arsenic eliminated or destroyed, or does it remain, so far as you know? A. I know nothing about it by practical experience, except so far as I can judge from my knowledge of its properties and from analyses of iron, both cast iron and steel. I have never seen analyses of steel showing the presence of any arsenic, and I should suppose that in the process of manufacture of steel the intense heat would expel the greater part of it. In the case of cast iron I know that traces are occasionally found.

FIELD, J. Perhaps the jury do not know what you mean by traces.

The WITNESS. Very minute amounts.

Q. Well, in impure sulphuric acid, where its presence is often found, would the process of boiling that acid cause the arsenical vapors, the vapors from arsenic, to arise? That is, whether in the case of boiling crude sulphuric acid, the vapors arising from it would be arsenical provided the sulphuric acid itself contained arsenic? A. In the case of diluted sulphuric acid, I don't think they would. In strong sulphuric, I suppose some might be.

Q. Take it strong enough to eat the coating of cast steel, would it be likely to arise in that case? A. I should not think it would. I could not say that minute amounts might not. I don't think, however, from my general knowledge that any amount would arise.

Q. You did not test, I suppose, these remains for the presence of any other poison except the arsenic? A. I did.

Q. For what? A. For the ordinary irritant poison, compounds of mercury, lead, antimony and tin. I used a general process which would have disclosed the presence of any one of the ordinary irritant mineral poisons.

Q. Arsenic is used a good deal as a medicine? A. It is used some, more or less.

Q. Prescriptions frequently contain it? A. I don't know how that is. My impression is it is usually prescribed by itself, but it is frequently prescribed.

Q. And commercial bismuth is liable to contain it? A. In recent years I have never found a sample of bismuth that contains anything more than the very minutest amount. Some years ago samples of bismuth did.

Q. That was the result of careful preparation? A. Yes, sir.

Q. And in the lack of careful preparation it would be likely to be present? A. Yes, sir.

Q. You may describe the appearance of it, whether it is a white powder? A. Arsenic is ordinarily a white powder.

Q. And might easily be mistaken for other substances? A. Very easily.

Q. Such as are used in the household? A. Yes, sir.

Q. For instance? A. Might be mistaken for bismuth; I suppose very readily for flour or bi-carbonate of soda, or almost any white powder.

Q. Sometimes the soil in which bodies are buried contains more or less of arsenic? A. Yes, sir; arsenic in the insoluble form, however.

Q. Doesn't it sometimes by the process of imbibition get into bodies? A. I doubt that myself very much indeed.

Q. But it is generally recognized in the books? A. Spoken of in all the books, but a great many experiments have been made recently which all tend to show there isn't much likelihood of it.

Q. Frequently found in baking powder, or has it been found in baking powder? A. I don't know how that is; it is found in some samples of carbonate of soda and bi-carbonate, one of the constituents of baking powder; very likely it is, but I have not made any tests.

Q. And sometimes found in commercial grape sugar? A. So it has been said.

Q. And in that case would it probably be derived from sulphuric acid? A. Yes; in the manufacture of grape sugar.

Q. Arsenic is used by confectioners and brewers? A. Not that I am aware of.

Q. Ordinarily a fatal dose of arsenic is two or three grains?

A. Yes, sir.

Q. But in many cases is there a much larger dose required?

A. Sometimes as much as an ounce or an ounce and a half.

Q. Four hundred and eighty? A. Yes, sir.

Q. It depends upon the susceptibility of the system or the constitution? A. Somewhat; whether the stomach is full of food or empty, whether the whole dose has been thrown off by early vomiting, and so on, and probably under conditions not understood.

Q. And the length of time which death would ensue ordinarily after a fatal dose of arsenic would be what? A. It varies very much indeed. It has produced death as early as twenty minutes and two hours. Twenty minutes is the earliest case, and in some cases death has been prolonged very many days. In the great majority of cases death would take place in the course of nine to twelve hours; that would be perhaps the larger proportion. A good many cases run from twelve hours to five or six days,—rare cases only.

Q. Is it a specific for skin disease? A. It is used in certain skin disease.

Q. (By FIELD, J.) How much would there be in a pinch of it between your thumb and finger? A. It is quite heavy, and a pinch of that, I presume, would take up three or four grains.

Q. You could take up a possible fatal dose between your thumb and finger? A. Yes, sir.

Q. (By Mr. GOODRICH.) Like a pinch of snuff, would be a fatal dose? A. I should think it would be possible.

Q. Its specific gravity is much greater than that of water? A. Yes, sir.

Q. Sinks readily? A. No, sir; part of it sinks readily, but it has a peculiar tendency to float on water for some reason or other, but that is a peculiar property of it. It forms in little bubbles, white powder, but only a small proportion.

Q. Wouldn't be fatal in itself unless it was a disproportionately large quantity? A. That is the amount floating on the surface of the water, that varies with circumstances. I suppose it would be rather difficult to say whether it is possible for a fatal dose to float on the water or not.

Q. It is insoluble in water I believe? A. It is soluble, though not very soluble.

Q. You mean by that how soluble? A. You can dissolve in eight parts of water by weight under certain circumstances.

Q. But how is it in cold water? A. Well, it is soluble in cold water, but not very soluble.

Q. What length of time would be required for it to become sol-

uble in water? A. Assuming that you had sufficient water to dissolve all the arsenic you were experimenting upon, perhaps it might take some two or three hours or even longer, and assuming it dissolved all of it, it dissolves quite slowly in cold water.

Q. It dissolves more readily in boiling water? A. Usually somewhat more readily in boiling water.

Q. Are those specimens on the card arsenic or compounds?

A. Some of them are pure, and two or three sets are compounds with other elements.

Q. By pure arsenic I mean metallic arsenic. Are the symptoms of arsenic poisoning constant or intermittent? A. It differs in different cases, intermissions are not uncommon.

Q. So that a person who had received one single dose of arsenic might be or appear to be better one day and not the next as the result of one administration? A. Yes, sir.

Q. You couldn't predict, then, the fact of repeated administrations from the recurrence of the relapsing of symptoms? A. No, sir.

Q. Just a word more, doctor, if you please, in regard to the use to which arsenic is put and where it is found. Is it commonly found in wrapping paper on lozenges? A. Very frequently.

Q. And on theatre and concert tickets? A. Yes, sir.

Q. And on playing cards? A. Yes, sir.

Q. (By FIELD, J.) In coloring material? A. Yes, sir.

Q. (By Mr. GOODRICH.) Children are sometimes poisoned by putting those articles into their mouths? A. They are not so often as I should suppose they would be.

Q. And in paper boxes generally? A. Yes, many times, those covered with green paper and certain shades of red.

Q. And particularly in wall-paper? A. Often, very commonly in wall-paper, and very largely.

Q. And often to an extent which produces sickness and even death? A. Yes, sir.

Q. Whether the use of arsenic in wall-papers has been made the subject of a good deal of investigation and inquiry? A. Yes, sir.

Q. Through public boards and in the Legislature? A. Yes, sir.

Q. Your colleague, I think, Dr. Wood, has made something of a specialty of that? A. He has.

Q. How many grains of arsenic have you known to come from a single square yard of wall-paper? A. Oh, five or six or seven or eight grains.

Q. And what would be the process in a case of death resulting from inhalation of arsenical vapors? How would death be produced? Will you describe briefly the process? A. Death resulting from its presence in wall-papers?

Q. Yes, sir. A. It has two series of effects. It has one local irritant effect, those effects being manifested by irritation of the eyes or irritation of what is called the conjunctiva, intolerance of light, an irritation of the mucous membrane of the throat, and in more serious cases irritation of the mucous membrane of the stomach. These are the most serious cases. Two or three are regarded as practically acute arsenical poisoning from its action upon the mucous membrane of the stomach. Then it has constitutional effects.

Q. And in the case of death the death would be preceded by symptoms similar to those which would result from its being taken internally? A. Somewhat similar.

Q. Used very largely in artificial flowers? A. It was formerly, I don't know how it is now.

Q. To that extent to cause it to be regarded as a dangerous and unhealthy business? A. Yes, sir.

Q. On the glaze of linen, is it found there? A. It has been said to have been found once or twice.

Q. Children's toys very frequently? A. Yes, sir.

Q. Can you tell us to what extent? A. I cannot. I know that I have found it very frequently on cardboards or sheets of paper upon which figures of one kind and another are printed, such figures as are to be cut out by children and pasted upon blocks or cardboards. I have found it quite frequently in those.

Q. And used in the form of fly-paper a good deal? A. Yes, it has been.

Q. Is it the destructive principle of the ordinary fly-paper? A. Of the ordinary brown paper. I have found it very frequently in that ordinary fly-paper.

Q. The article called "rough on rats" is almost entirely arsenic? A. Very nearly, a little charcoal.

Q. How many different kinds of wall-paper have you yourself analyzed? A. I don't know; perhaps five thousand, possibly ten. I don't know. I examine a great many hundreds in a year and have been examining them for fourteen years.

Q. And in what proportion do you find arsenic? A. About one-third.

Q. And often in large quantities? A. Often in large quantities.

Q. And whether as the result of the presence in wall-papers it is found in the form of dust upon the paper which may be readily brushed off? A. It is.

Q. And which may be readily absorbed in the system? A. Yes, sir.

Q. Have you ever had occasion to analyze the ordinary bandbox, for instance? A. Yes, sir.

Q. Made a quantitative analysis? A. I have never made a quantitative analysis of one of those boxes.

Q. In the case of textile fabrics, cloth, is it found there? A. Yes, found frequently in cotton goods.

Q. (By FIELD, J.) Is it found independent of the coloring matter in cotton goods? A. It is. Arsenic is used as a mordant to fix the color in the cloth. It is used in connection with the process used, but it is frequently found where it is not a constituent of the pigment on the cloth.

Q. (By Mr. GOODRICH.) What is the arsenic derived from in that case? A. It is used in the form of white arsenic as a mordant or arsenite of sodium or arseniate of sodium. The color makers usually say it is used to make the pigment work better.

Q. And it is found more or less in colored confectionery? A. I doubt if you would find it at the present day. It was formerly found somewhat.

Re-direct.

Q. (By Mr. STEVENS.) Doctor, you exhibited one card there that contained a sample or samples of arsenic taken from different organs? A. From the liver.

Q. Now you have samples of arsenic taken from the other organs also? A. Yes.

Q. (By FIELD, J.) In the same form? A. Yes, sir.

Q. Some of them solid, and some in solution? A. Yes.

Q. (By Mr. STEVENS.) Taken from the various organs? A. Yes, sir.

Q. In a general way, you testified about the amount of arsenic in wall-paper. Have you known a fatal case where people were poisoned by arsenic in wall-papers? A. I have read of two or three only.

Q. It is not very common? A. It is not a very common thing.

Q. Now, doctor, something was asked you about arsenic in sulphuric acid. Let me put a question. Supposing a fluid contains about eight or ten parts of sulphuric acid in ten thousand parts of fluid, would it be possible, in your opinion, for any dangerous amount of arsenic to be volatilized in heating the acid, even if the sulphuric acid did contain arsenic, in the usual process? A. I don't think it would be possible.

Q. That is to say, whether it would have been possible for this Prince Arthur Freeman to have been poisoned by inhaling the vapor which came from that trough, which was I think twenty feet long, and from twenty-four to thirty inches wide, and a foot deep, and filled with water in the main, and one or two pails full of sulphuric acid put in daily? A. I don't think it would have been possible.

Q. When you speak of a person dying ordinarily in a few hours from arsenic, you mean, I suppose, from a single dose of arsenic? A. Yes, sir.

Q. I suppose a man's life may be protracted for a length of time if repeated doses are administered in small quantities? A. Yes, sir.

Q. So that if Prince Arthur Freeman had been taken sick on Monday and died on Saturday, could you form any opinion whether he had received one dose or more than one? A. I could not.

Re-cross.

Q. (By Mr. GOODRICH.) I asked you in regard to the presence of arsenic in various substances. Are you familiar with its use as a medicine? A. I only know in a general way that it is used. I know the forms in which it is used, but I have no practical acquaintance with its use as a medicine.

Q. And principally in what cases? A. It is used in some cases of skin disease, and in, I think, certain malarial cases.

Q. Used in diseases of the stomach? A. I don't know.

PROF. EDWARD S. WOOD — *sworn.*

Q. (By Mr. STEVENS.) You are a professor of chemistry, and have been for several years, in the Harvard Medical School? A. Yes, sir.

Q. Now, in connection with this case, did you go over to South Boston and examine the pickling room of the Norway Iron Works? A. On the 24th of last January I went over and examined the pickling room, and I also took a sample of the pickle for examination and analysis.

Q. (By FIELD, J.) January of this year? A. Yes, sir.

Q. (By Mr. STEVENS.) Did you make an analysis of it? A. I did.

Q. What was there in the pickle? A. They were at that time engaged in pickling the steel bars. The fluid was contained in this large trough which has already been described. The steam was turned on so that it was steaming; and the room, when the doors were closed, was pretty well filled with steam, so that it was a little thick. A portion of the acid I examined for arsenic, but it was absolutely free from arsenic; and the fluid contained eighty-four thousandths of one per cent. of sulphuric acid.

Q. Eighty-four thousandths of one per cent.? A. Yes, sir. That would be eighty-four parts in one thousand.

Q. Not quite one-tenth of one per cent.? A. Yes, sir.

Q. Now I will put a question to you. Supposing a fluid containing about eight or ten parts of strong sulphuric acid in ten thousand parts

of fluid, would it be possible for a dangerous amount of arsenic to be volatilized in heating the acid, even if the sulphuric acid did contain arsenic as an impurity? A. No, sir; I don't think it would.

Q. In other words, would it have been possible, in your opinion, for Prince Arthur Freeman to have been poisoned by inhaling that vapor? A. No, sir.

Q. I will ask you another question, doctor. Suppose you had made an analysis as Professor Hills did, and found 2.66 grains of arsenic, and it should turn out that the person whose organs you analyzed was taken sick on Monday at the stomach, headache, burning sensation in the abdomen, and diarrhœa, and those symptoms extended from Monday till Saturday when he died, what in your opinion would be the cause of his death? A. I should say, the symptoms being consistent with arsenic poison, and it being detected after death,—I should consider that the death was due to arsenic.

Cross-examination.

Q. (By Mr. GOODRICH.) Are the symptoms produced by acid poisons generally similar? A. They are to a very great extent.

Q. Substantially similar? A. Yes, sir.

Q. And upon what you have heard from Professor Hills' testimony, would you agree with him that it would be impossible for you to detect in what manner the arsenic found in this body came there, whether from being taken into the stomach, or through respiration, or otherwise? A. I should say it was impossible to say how it got into the system.

Q. Will you tell us, doctor, whether the symptoms of arsenical poisoning are intermittent? A. Very common, in these cases which last for several days, for an intermission to take place between the second and fourth day, the patient apparently being better during that time, and then having a recurrence of the symptoms without any fresh dose of poison being taken.

Q. (By FIELD, J.) Owing to the effect of the arsenic? A. Probably due to the fact that the inflammatory symptoms begin to subside, and then the secondary effects come on a few hours later.

Q. (By Mr. GOODRICH.) You agree with Professor Hills in what he says about the diffusion of arsenic through various substances? A. Yes, sir; entirely.

Q. You have had occasion to analyze a great many specimens of different kinds of substances that contain arsenic? A. Yes, sir.

Q. And made reports upon them, have you not? A. Yes, sir; to the State board of health.

Q. Doctor, can you tell us whether that box, for instance, contains considerable arsenic? A. That color has evidently, from its appear-

ance, paris green, which contains about fifty per cent. of arsenic, *i. e.*, in color.

Q. Would the presence of the amount of arsenic in the body as described by Professor Hills, in the case of Mr. Freeman, be indicative, in your judgment, of the process of embalming rather than of poisoning? A. I should certainly think it was in the case of the mercury. It must have been.

Q. And from the quantity which he spoke of? A. I didn't understand that any quantitative analysis was made for arsenic for different portions of the liver.

Q. Assuming that the arsenic was diffused proportionately through the body.

FIELD, J. The testimony, as I have it, is, "I made analysis of the liver, quantitative, and found 3.25 grains."

The WITNESS. I don't understand that amount of arsenic to be very large, if the person had lived two or three days. It might exist in an ordinary case of acute poisoning, if it took place earlier.

Q. But it would be natural in a case of embalming? A. Yes, sir; certainly.

Re-direct.

Q. (By Mr. STEVENS.) I don't suppose you mean to say that there is any danger to us here from that box? You don't mean to say that people are very often poisoned from boxes of that kind lying about, or from wall-paper, or grape sugar, or various substances in which you find small quantities of arsenic? A. No, sir. Acute poisoning is exceedingly rare, and that would only produce poisoning if eaten or swallowed. People are sometimes poisoned in that way.

Q. Now, professor, did you ever know of anybody's dying from the effect of arsenic being taken accidentally, — I mean in the ways which I have mentioned, from wall-paper, from its mixture in food or confectionery, or in clothing? A. There have been from wall-paper three or four fatal cases recorded, but under very peculiar conditions, where an immense amount of arsenic was present in the wall-papers, a great many grains to the square yard, and where the atmospheric conditions were these: where there was very great dampness present during the night, the room having been closed for a long while, and the atmosphere being damp. I recall no other cases, except where the substance was heated.

Q. Have you ever known any such case by eating? A. Yes, sir; I have known cases of fly-paper.

Q. Where it was eaten? A. Yes, sir; by a child.

Q. Is bismuth ordinarily pure? A. Yes, sir. I have examined a great many specimens of bismuth in the last five years and haven't

found any. Formerly, about twelve years ago, I found traces of arsenic sometimes in bismuth.

Q. In large quantities? A. No, sir; only a trace.

Q. In such quantities that, being administered, you would expect to find two or three grains in the organs after death? A. No, sir. I have never known of any bad results from bismuth within the last twenty-five years, due to arsenic.

Re-cross.

Q. (By Mr. GOODRICH.) Is bismuth a substance that may be mistaken for arsenic? A. Yes, sir. They are both white powders, and both heavy.

WILLIAM E. ANDREWS — *sworn.*

Q. (By Mr. STEVENS.) You are employed by Mr. Tinkham, the undertaker? A. Yes, sir.

Q. And drive for him sometimes? A. Yes, sir.

Q. Now did you take a body purporting to be the body of Annie Freeman from the Garden Cemetery, from Mr. Litchfield, who was the superintendent of the cemetery, and carry it to Boston and deliver it at any time to the medical examiner, Dr. Harris? A. Yes, sir.

Q. When was it? A. I couldn't give you the date of it.

Q. About when was it? A. I think it was somewhere in September.

Q. What year? A. In 1886.

Q. Did you take the body of Prince Arthur Freeman? A. I did, sir.

Q. When was that taken? A. That was in September, I think, about the 25th or 27th of the same year.

Mr. GOODRICH. I object to that question, if it involves the identification of the body.

Q. I ask: Did you take a body from Mr. Litchfield, taken by you to be the body of Prince Arthur Freeman? A. Yes, sir.

Q. Was there any plate on it? A. Yes, sir.

Q. What was it? A. His name, date of death and age.

Q. And that was delivered to you, as near as you remember, when? A. I think about the 25th or 27th of September, 1886.

Q. What did you do with it? A. I delivered it to the morgue, Dr. Stedman.

Cross-examination.

Q. (By Mr. GOODRICH.) What did you do with the plate?
A. The plate was left on the casket.

Q. And what was done with the casket? A. The casket was left at the morgue with the body.

Q. Do you know anything further about it? A. Yes, sir.

Q. What do you know? A. I know it was put back into the casket and delivered back to the cemetery to Mr. Litchfield.

Q. How do you know that? A. Because I did it myself.

Q. That is what I ask you. A. Because I see it.

Q. You returned it to the cemetery? A. I returned it to the cemetery.

CHARLES F. TINKHAM — *sworn*.

Q. (By Mr. STEVENS.) Your business? A. Undertaker.

Q. Did you know about when Prince Arthur Freeman was buried? A. Yes, sir.

Q. You furnished the hearse, did you, and also the casket? A. Yes, sir; for Mr. Weir.

Q. Were you present at the funeral? A. No, sir.

Q. Did you see the body at any time? A. Yes, sir.

Q. When? A. In the morning, — when it was dressed and put in the casket.

Q. At the house? A. Yes, sir.

Q. Did you afterwards see that body at any time? A. Yes, sir; after it was brought to the morgue. I went to the dead-house and saw it.

Q. And delivered it to Dr. Harris? A. Yes, sir.

Q. Did you identify it? A. Yes, sir. I knew it was the same man that we buried.

Q. That was delivered to Dr. Stedman? A. Yes, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) Did you identify the body, or identify the casket? A. Both.

Q. Was the body in that state in which you could identify it? A. Yes, sir.

Q. It was not very much dried and mummified? A. It was decayed.

Q. Were you acquainted with Mr. Freeman in his lifetime? A. No, sir.

Q. This was a year and a quarter — fifteen months — afterwards? A. Yes, sir.

Q. And you had never seen Mr. Freeman in his lifetime? A. No, sir.

Q. You only saw the corpse after his death? A. That is all.

Q. And you recognized him? A. I recognized that that was the man that we dressed in Boylston Street.

Q. His features were very much changed, I presume? A. Yes, sir; but I knew the man by the looks of the plate, also, on the casket.

Q. Without reference to the casket or the plate, upon looking at those remains, would you say that those were the man that you buried in June? A. I don't know that I could have called his name.

Q. Would you have recognized him? Was there anything about the corpse to enable you to recognize him? A. Nothing in particular; only the general look.

Re-direct.

Q. (By Mr. STEVENS.) Anything about the clothes by which you could identify him? A. Nothing in particular, sir; only an average suit of clothes. Nothing in particular.

WILLIAM E. ANDREWS — *recalled.*

Q. (By Mr. STEVENS.) Mr. Andrews, anything about the clothes by which you could identify that body as the body of Prince Arthur Freeman? A. The clothes that I dressed on Boylston Street had sleeve-buttons which were not alike, which was supposed to be Freeman.

Q. Did this body, that you delivered to Dr. Stedman, contain the same sleeve-buttons,—did the cuffs contain the same sleeve-buttons? A. Yes, sir; the cuffs contained the same sleeve-buttons.

MRS. CATHARINE MELVIN — *recalled.*

Q. (By Mr. STEVENS.) You are the sister of Prince Arthur Freeman? A. Yes, sir.

Q. And, at the time he died, you were residing where? A. In Charlestown. I was at Nantasket for the summer,—spending the summer there.

Q. Your mother is alive? A. Yes, sir.

Q. She lives in Charlestown? A. Yes, sir.

Q. When your brother was taken sick when did you first hear of it? A. I received a letter Friday forenoon saying that he was very ill; and I came to Boston as soon as I could after receiving it.

Q. Friday? A. Friday.

Q. What time did you get there,—at Mrs. Robinson's? A. It was some time towards night. I went to Charlestown first to my mother's, and she said she had received a card saying he was better and that the doctor considered him out of danger, so we didn't hurry.

Mr. GOODRICH. No matter what your mother said.

Q. How did you find him? A. I found him apparently very sick. He was vomiting when I arrived. My mother went with me.

Q. This was on Friday that you arrived? A. Yes, sir.

Q. What time was it, Friday? A. It was towards night. I can't tell you the exact time. It was in the afternoon.

Q. Did you have any conversation with Mrs. Robinson about him?

A. She said that he had been sick since Monday; that he came home Monday very sick, and had been sick ever since.

Q. Say how he was taken sick? A. Said that he came home, and said that he was very sick, and he had been vomiting.

Q. Say where he had been vomiting first? A. I don't remember that she did.

Q. Well, go on. A. Well, she said that she felt all day that he was coming home sick, and she had said to her daughter several times, "Uncle is coming home sick," and she had been looking for him, and was not surprised when he came.

Q. Say why she thought so? A. No; only that she felt that he was coming.

Q. At any time say why she thought so, in your presence? A. No; I don't remember that she did.

Q. Anything about any dreams? A. I don't remember that she told me about any dreams.

Q. What else did she say? A. I don't know what else she said at the time. She said he was very sick, and I said, "Well, probably he will get over it." I felt that he would; and she said that she knew that he wouldn't. I suppose why she thought so was because — [Interrupted.]

Q. Never mind that. Anything that she said. A. She said she knew he would never get well.

Q. Tell you why? A. Because everybody died that was taken sick of her family.

Q. (By Mr. GOODRICH.) Did she say so? A. Yes. She said when they were taken sick she felt sure they would die.

Q. In this conversation that you are speaking of? You are telling her conversation? A. I don't know that she said that as soon as I arrived.

Q. During that conversation that was inquired of? A. I can't tell any particular conversation, because I talked with her all the time I was there, more or less. I was there all night and a part of the next day.

Q. (By Mr. STEVENS.) State all the conversation that took place between you and her in reference to Prince Arthur that you recall? A. I can't recall any particular conversation.

Q. Was anything said that night about the insurance? A. No, sir.

Q. What was his condition the next morning? A. Well, I attended him during the night and gave him his medicine. She retired some time during the night, late, and I sat up with him alone until morning.

Q. (By FIELD, J.) That was Friday night? A. That was Friday night; and he slept a very little. In the morning he complained of being hungry, and would like something to eat; and we didn't dare to give him anything until the doctor came. So when the doctor came he said he could have something to eat—that he was better. And he says, "I don't know what it is, but you seem to be very much better,"—he could have something to eat. He told me what to get, and I went to prepare it, and gave it to him; some of Leibig's food.

Q. (By Mr. STEVENS.) Now, how was he during that day? A. He didn't seem any worse. He was restless and complained of thirst, and I gave him ice continually; kept cracked ice by him.

Q. What time did you go away? A. I can't say. It was some time in the afternoon.

Q. Did you see him again? A. I didn't until after his death.

Q. Did you say anything about spending the night there? A. Yes, and said I would stay if it was necessary; and Mrs. Robinson said she expected two members of the Colony to watch with him that night, and she thought it would be better for me to go to Charlestown and come again in the morning, because I wasn't very strong, and I would be better prepared to take care of him the next day.

Q. And you never saw him alive again? A. I never saw him alive again. I went the next morning as soon as I got the first horse-car that went over.

Q. Did you have any conversation with Mrs. Robinson when you went there that Sunday about the insurance? A. I think I did.

Q. What was it? A. Well, I, of course, knew that there was expenses to be paid, and I knew that he belonged to the Colony, or to some insurance company, and I said to her, "Do you think the insurance on his life will be paid?"

Q. Did you know the insurance was assigned to Mrs. Robinson? A. No, sir; I did not. I supposed it was assigned to the child. She said, "I doubt it very much." I don't know as I said that she wouldn't get it, because I didn't know that she was going to get it. And I said, "If the insurance is paid, his funeral expenses will be paid out of that." When she said she doubted it, she said he hadn't received the papers from the Colony; that the papers were there to be transferred. I understood that they were to be transferred to his child,—I don't know what she said,—and that they hadn't received them, and she doubted whether it would be paid. In that case I said

I would be responsible for his expenses, and that she might tell the undertaker so; and she said she would. I think that was all that was said about it at that time.

Q. When did you next have any talk with her about the insurance?

A. It might have been — it must have been on the day of the funeral, I think. That was Sunday. It must have been the next day, after she had seen the undertaker. She said she had seen him and that he wouldn't do that, but he would make it out to Prince Arthur's estate. I said no more about it then. After, on the day of the funeral, she said she would let me know whether the money was paid or not. I wanted to know, as I wanted to know what I was to do about it. She said she would send me word, or come down to the beach at Nantasket and bring the boy with her.

Q. Did you say anything about taking the boy with you? A. I asked her if she would like me to take him down there with me, as I thought it would be a change for him.

Q. What did she say? A. She said she didn't think I had better take him then, as they would be strangers all but me that was down there, and perhaps he would be homesick; but after she found out about the money she would come down and bring him, and let him stay with me a while.

Q. Ever bring him down? A. No, sir; she didn't come. I didn't hear from her directly again until after I came home.

Q. Did she have any further talk with you about the insurance? A. No, sir.

Q. Ever? A. Not until after the boy died.

Q. When was that? A. That was the following summer, in July.

Q. What talk did she have then about the insurance? A. I asked her then about it.

Q. After the boy was dead? A. Yes. I asked her who was Arthur's guardian, because she had previously said that some doctor was appointed guardian. I didn't ask her that myself. I didn't inquire. I supposed that what she said was true, and it was not necessary for me to ask. I asked if Dr. Nichols was Arthur's guardian. Said she, "What do you mean?" I said, "You told my mother that some doctor was Arthur's guardian." She said, "I didn't tell her any such thing. He has no guardian but me, and the money was transferred to me, and Arthur had nothing at all to do with it." I said, "Very well, that settles it." And I had no further conversation with her about it.

Q. That was all the conversation you ever had with her about the insurance? A. Yes, sir. I had just a little with her brother about it when he was alive.

Q. No matter about that unless Mrs. Robinson was present.
A. That didn't amount to anything at all.

Q. Did Mrs. Robinson say anything to you about the nurse going away in South Boston? A. I don't remember that she said anything to me directly about her going away. I knew that she wasn't pleased with what she did, but I can't say that she said it to me. Said it to some members of the family.

Cross-examination.

Q. (By Mr. GOODRICH.) You received a letter at Nantasket from whom? A. From my mother.

Q. You received it on Friday? A. On Friday.

Q. And you are sure that it was the same day that you went to see your brother? A. It was.

Q. You had not been there previously? A. No, sir.

Q. Didn't you go there during his sickness, with your mother, at any time? A. I was down at Nantasket; that was the first I heard of his sickness—Friday. My mother went over with me Friday afternoon.

Q. You are sure Friday was the day? A. Yes, Friday was the day. He died Saturday night; I sat up with him Friday night.

MRS. SARAH FREEMAN—*sworn.*

Direct examination.

Q. (By Mr. STEVENS.) What is your full name, madam? A. Sarah Freeman.

Q. And you are the mother of Prince Arthur? A. Yes, sir.

Q. Were you over there when Annie was sick? A. I was; two or three times.

Q. Were you there after she died? A. Yes, sir, the day.

Q. Did you have any conversation with Mrs. Robinson about her? A. No.

Q. About the children? A. She said that they had made up their minds for Prince and the children to live with her.

Q. Nothing said about insurance at that time, was there? A. Not then.

Q. When did you first have any conversation with Mrs. Robinson about insurance? A. The day after Prince died.

Q. Did you see Prince while he was alive—I mean during his sickness? A. Yes, sir; I was called there Tuesday. He was taken sick Monday and I had a card Tuesday forenoon saying he was sick, and I went right over.

Q. Did he come over to see you on the 17th of June? A. He did.

Q. Did he tell you why he came over?

[Objected to.]

Mr. STEVENS. I am going to connect it with Mrs. Robinson.

FIELD, J. Anything that he said to you that Mrs. Robinson afterwards said to you, you may state, madam. A. He said he wouldn't have come—he had got work—only Mrs. Robinson said that he should come, because he and his mother might never meet again.

Q. Did you have any conversation with Mrs. Robinson about that afterwards? A. She told me that again afterwards—after he was dead.

Q. When did you first see Prince Arthur after he was taken sick?

A. Tuesday afternoon.

Q. What time did you get there? A. Between two and three.

Q. How long did you stop? A. I stopped till after three.

Q. What did Mrs. Robinson say, or he say in Mrs. Robinson's presence? A. She said he would never get well; he would never get out of the bed again. I asked him when he was taken sick; he said on his way over to Boston going to work; he was sick through the forenoon and couldn't stay and had to come home.

Q. Did Mrs. Robinson tell you why she thought he would never get off the bed? A. She said she had had a vision.

Q. Anything else said? A. She said she knew he was coming home sick; she felt an impression that he would come sick, and told her daughter through the day that he would come sick; and when he came she was looking for him and he leaned against the door, and he said he was very sick. She put him to bed and he never got up.

Q. You had no talk, I suppose, with her about the insurance on that occasion? A. No, sir.

Q. You said you did not until after Prince Arthur died? A. No, sir.

Q. What did she tell you when you went away? A. She said if he was any worse she would send for me.

Q. Did she send for you? A. She sent me a card Thursday saying he was much better, and the doctor thought he would get through with it.

Q. (By FIELD, J.) Where were you living?

The WITNESS. I was living in Charlestown.

Q. She was living in Cambridge? A. She was living on Washington Street in Cambridge. She sent me a card Thursday saying he was much better. I wrote to my daughter and she came up Friday about noon, and we went right over—got there in the afternoon late.

Q. (By Mr. STEVENS.) How did you find him Friday? A. I thought he was about the same as he had been; but then, I had seen folks get well that was sicker, I thought.

Q. Did you see him again? A. I didn't see him again. My daughter came home Saturday night, saying that he was much better. After we had retired the bell rang, and Willie came and said he was sinking fast and wanted me to come. I went right over as soon as I could get a car, and he died as I got to the door.

Q. You stayed all night? A. All night, and the next forenoon.

Q. When did you first have any conversation with Mrs. Robinson about the insurance? A. She said the next day she didn't think she would get it. A number of times when I was there she would say the same — she didn't think she would get it. I hoped she would, for the child. She said she didn't think she would.

Q. Did she tell you why? A. No, she didn't tell me why. She said the assessments were all paid up, and I said I didn't see anything to hinder her getting it. She didn't let me know, and I didn't know she got it till the winter.

Q. Did she tell you what she was going to do with the insurance if she got it? A. No, — I supposed she was going to take care of the child.

[Objected to.]

Q. Did she say anything about giving any to you? A. She said if she got any she would give some to me — she said it would be Prince's request; but I didn't expect it.

Q. Afterwards — did you see her after she received the insurance? A. I didn't know she received it until a day or two before Thanksgiving, the same year. Then I went over to see the child, — I was thinking of going away, — and she had gone to Wisconsin to her brother's; and Lizzie told me she had got it. I felt very glad for her. I didn't go again till she got home. When she got home I went over some time before Christmas, and I told her I was very glad she got it for the sake of the child and I asked her who was the child's guardian — or I asked her, rather, if she was the child's guardian. She said no, they wouldn't give her permission to be it, because they said she was looking so ill she might not live a great while. They asked who would succeed her, and she said Willie. They, I suppose she meant the officers, — they said she nor Willie couldn't be it, but if she couldn't find one they would find one. She said they had a doctor in Cambridge that they were acquainted with and who was paying her six cents on a dollar, and paying her twice a year. He told her to clothe the child up well, and she said she had. She gave him two suits of clothes to last him until she got her interest again.

Q. At any subsequent time, within a few months, did you have occasion to investigate the question of how much clothing he had? A. Yes, sir; in February Lizzie died, and I went over to the funeral, and Jessie McDonald brought me a pair of pants that she was going

to hem up for the child, and I asked where his new clothes were, and she said he hadn't any.

Q. What did you do in preparing for the funeral? A. I hemmed the pants.

Q. What were they? A. A pair that had been washed, — that had been worn to school a long time.

Q. Were they very much worn? A. They were worn considerable. They needed hemming and fixing up, — they had been washed.

Q. Did you have any conversation with her about the insurance? A. I didn't. I thought it was all right, and heard no more about it. I went away in the spring, in May, and was gone — when I came back she was arrested.

Q. She had been arrested? A. Yes, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) Prince Arthur was taken sick Monday night, and on Tuesday Mrs. Robinson sent for you? A. Yes, sir.

Q. And on Friday you received from her a postal card? A. On Thursday I received a card, saying he was much better.

Q. And then what did you do? A. I sent to my daughter down to the beach and she came up, and we went over Friday.

Q. One moment. What word did you send to your daughter? A. I sent word to her that Prince Arthur was sick, and she had better come up — the first of her knowing anything about it.

Q. You sent to her to come up, — what day did you send to her? A. I sent to her Thursday night and she got it Friday night.

Q. When did you write to your daughter? A. I wrote to her Thursday night.

Q. I thought you said it was on Friday that you got the note from Mrs. Robinson? A. I got the note on Thursday.

Re-direct.

Q. (By Mr. STEVENS.) Prince, you say, came over to see you on the 17th of June, and you afterwards had a conversation with Mrs. Robinson about it? A. Yes, sir.

Q. Did Mrs. Robinson tell you then why she thought he never was going to see you again? A. I don't know as she told me why; but she said, "Probably you will never meet again." And I heard her say numbers of times that she had visions; and she said that Emma came and said he was coming, and would come quick.

Q. When did she tell you that? A. She told me that some time before he was sick.

Q. (By FIELD, J.) I don't quite understand. You say your son came over to see you on the 17th of June and told you something —

how long after that was it that you had the conversation with Mrs. Robinson about it? A. After he died.

Q. (By Mr. STEVENS.) He was taken sick the next Monday after he came over to see you? A. He was taken sick the following Monday after he was there.

WILLIAM H. DILLON — *sworn*.

Direct examination.

Q. (By Mr. STEVENS.) What is your name? A. William H. Dillon.

Q. And you lived at the time Prince Freeman died, where? A. 54 Boylston Street, Cambridge.

Q. In the same tenement, in the same building with the defendant? A. In the same building.

Q. When did she move in? A. I think, I don't know — I think it was in April — the last of April; she moved into my tenement before I had time to get out, I know — the 28th of April, or 29th, I believe.

Q. Did you know when Freeman was sick? A. Did I know?

Q. Yes. A. Yes, sir.

Q. Did you know of Freeman and her having any trouble before he was taken sick? A. I had intimation from the manner in which Mr. Freeman had acted in coming in the morning to shake his ashes in the ash barrel. I said frequently to my wife, "I think —"

Q. No matter about any conversation you had with your wife, — but anything you ever heard between Mrs. Robinson and Freeman you can state.

FIELD, J. I wish you would have the witness explain a little more clearly where he lived and where Mrs. Robinson lived.

Q. (By Mr. STEVENS.) Mrs. Robinson lived in the upper tenement? A. In the upper tenement.

Q. And you lived — A. In the lower tenement.

Q. And how many stories high is that building? A. Three stories.

Q. And there was one tenement between? A. Yes, sir.

Q. And there was a Mr. Morse who lived in the middle tenement? A. Yes, sir.

Q. And he is now residing in New York, is he? A. Yes, sir.

Q. I want you now to state anything you know from what you heard of the relations between Mrs. Robinson and Freeman.

Mr. GOODRICH. He cannot give any inferences.

FIELD, J. Anything that he heard her say to him, or anything that he heard them say to each other, or heard her say about him, or saw either do with reference to the other, he may state.

Q. (By Mr. STEVENS.) Well, when the stove was put up after she moved there? A. He was doing some trivial thing —

Q. What? A. He was doing something to the best of his ability, I suppose, and she turned quite cross, which changed my opinion about her at the time.

Q. What did she say? A. I don't exactly remember the remark — but her manner — the manner in which she spoke and looked, and the triviality of the circumstance occasioning her appearance.

Q. Before he was taken sick did you know of any trouble between them, from anything you saw or heard between them, or anything that she said in his presence or in his absence? A. Nothing except that he was constantly complaining to himself in the morning at the ash barrel when he shook his ashes.

[Objected to.]

Q. Was she present? A. Well, I don't remember positively that she was present.

Q. Was she where she could hear what he said? A. Well, I think so — she may have heard him at the window.

Q. He was under the window? A. Yes, sir.

Q. Then what did he say? A. I don't know that I heard him say anything distinctly.

Mr. GOODRICH. What you say — in the first place, please allow Mrs. Robinson to hear you; keep your voice up.

The WITNESS. I don't know that I heard him say anything distinctly, as my window was sometimes a little open and sometimes closed; but occasionally in the morning he would shake his head at the barrel, and I wondered to myself —

[Objected to.]

FIELD, J. You can only state what you saw and what you know.

The WITNESS. He frequently shook his head in a very cross manner, as though he was displeased with something.

Q. Did you see him in the morning when he was taken sick? A. Yes, sir.

Q. What was he doing then? A. He was very cross Tuesday, before he left.

Q. Did you see him during his sickness? A. No, sir.

Q. Did you hear him during his sickness? A. Yes, sir.

Q. Vomit? A. Yes, sir.

Q. When was that? A. On Monday evening when I came from the office.

Q. When did you go up there — after he died? A. After he died, — yes, sir.

Q. When was it? A. On the Sunday following, — immediately after his death.

Q. The next day? A. Yes, sir.

Q. Did you have any conversation with Mrs. Robinson about his sickness? A. Yes, sir.

Q. What was it? A. I asked her what was the reason of his death, and she said she didn't know; and I said, "It is a very sudden death, it seems peculiar that he should die so; don't you understand it?" She said, "No." I said, "Well, don't the doctors understand?" She said, "No, Mr. Dillon, they really don't understand it." At that time she hurried me into the room. She said, "You had better see Mr. Freeman and attend to the matter of putting on the ice." And I went in, and Lizzie and a friend of hers —

Q. Belle Clough? A. I think it was Belle Clough — were there; I felt dissatisfied with her manner, and I asked her again what was the cause of his death, and she said then she didn't know. I said, "Don't the doctors really give any reason for his death?" And she said, "Yes, they say he has been poisoned with either iron filings or brass filings" — I forget which she said — "at his place of business."

Q. Did you know of Mrs. Robinson going away afterwards to the West? A. I heard of it.

Q. Oh, she didn't live in the house with you when she went away — I thought she did? A. I won't be sure.

MR. STEVENS. That is all, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) She said that the doctors thought he had been poisoned with either iron filings or brass filings, you don't remember which? A. No, sir.

Q. But you can remember, perhaps, whether she said she thought so, or the doctors thought so? You remember that quite distinctly, so that you can swear to it? A. I remember her saying that the doctors said so.

Q. You asked her what was the reason of his death? A. Yes, sir.

Q. And she said she didn't know? A. Yes, sir.

Q. And then you asked her if the doctors understood it and she said that they didn't know? A. Yes, sir.

Q. That is so, is it? A. Yes, sir.

Q. After asking her that question and getting that answer, why did you afterwards return to the attack again and ask her if she didn't know and the doctors didn't know, if you had once exhausted that subject with her? A. Why did I do so?

Q. Yes. A. Because of the peculiarity of the death. She had asked me previously to come and see Mr. Freeman.

Q. This was after the death, was it? A. Yes, sir. She had asked me to come up a day or two before, and I intended to, but I didn't think that his sickness was so serious, and I felt a little sorry that I had not gone up.

JAMES E. SHEPARD — *sworn.*

Direct examination.

Q. (By Mr. STEVENS.) What is your name, sir? A. James E. Shepard.

Q. And you are an officer in the Pilgrim Fathers? A. Yes, sir.

Q. What office do you hold? A. I am secretary of the Order.

Q. You keep the records? A. Yes, sir.

Q. You have the records with you? A. I have.

Q. Prince Arthur Freeman was insured when? A. He was insured on the second day of November, 1882.

Q. For how much? A. Two thousand dollars.

Q. (By Mr. GOODRICH.) What day? A. November 2d he was admitted in the Order.

Q. (By Mr. STEVENS.) That insurance was assigned to whom, when? A. That insurance was made originally in favor of [reading from application] — “I direct that, in case of my decease, all the benefits to which I may be entitled from the above Order be paid to Annie E. Freeman, my wife.”

Q. Was that afterwards changed? A. Yes, sir.

Q. When? A. It was changed on the thirteenth day of May, 1885.

Q. And assigned in his handwriting? A. It is signed by himself, I presume — signed by himself in the presence of witnesses.

Q. That is the assignment, is it? A. Yes, sir.

[Paper presented to the court.]

Q. You do not know, I suppose, yourself, anything about the insurance having been paid over to her? A. I have her receipt, sir.

Q. You have; let me see it. What is the date of it? That is the policy, is it? A. That is the policy, sir.

Q. Did she have this policy? A. Yes, sir. It was in the possession of Prince Arthur Freeman; she presented it for payment.

Q. This appears to have been signed the twenty-third day of September. You do not know, actually, when the two thousand dollars was paid over? A. I do not know, sir; that is the date the policy came into my possession.

FIELD, J. Is that what they call a policy?

Mr. STEVENS. That is the policy, there.

The WITNESS. That is the application, sir.

Q. Who was M. L. Busnach? Do you know him? A. I do not, sir.

Q. (By FIELD, J.) You have some by-laws, I suppose? A. Yes, sir.

Q. What is the by-law in force in regard to changing the designation of a policy—in force at this time? A. [Producing book.] Shall I read the section, sir?

Q. If you know it is the by-law and in force at that time. A. Yes, sir.

Q. Yes, you may read it. A. It is section 8 of article 10. [Reading.] “Each member of a subordinate Colony shall cause to be entered upon its secretary’s roll book a direction to whom the benefit shall be paid and his residence, but any member desiring to change his beneficiary shall give a written declaration thereof to the Colony, signed by him and witnessed by two reputable witnesses and acknowledged before a justice of the peace; and the record shall then be changed to correspond with declaration upon the payment of one dollar, fifty cents of which shall be retained by the Colony making the change and fifty cents paid to the Supreme Colony, and said written declaration shall be forthwith sent to the supreme secretary by the secretary of the subordinate Colony.”

Q. Now, on the execution of that paper requesting that the policy may be made payable to Mrs. Robinson, what paper, if any, was issued? There is the application, there is the assignment which seems to involve a payment of one dollar and some consent on the part of somebody. A. This is sent me, sir; they ordinarily fill them out upon the back of the certificate as well. This is sent me and goes upon my records, and I sometimes issue a new certificate when they deliver up the old one. If not, my records and the record upon the books of the subordinate Colony govern.

Q. Is an assignment compulsory upon the Colony in practice, or do they pass upon it in determining whether they assent to it or not? A. Oh, no, there is no assent necessary on the part of the Colony; they receive notice of the change.

Q. (By Mr. STEVENS.) When did you receive notice of the change? A. Upon the twenty-seventh day of May, sir.

Q. This is the application? A. Yes, sir.

Q. And this is the assignment? A. That is the assignment.

Mr. STEVENS. I will read the assignment. [Reading.]

I, Princee A. Freeman, the person named in the within certificate, do hereby cancel and revoke all former appointments of legatees as entitled to the benefit fund payable in case of my death to my wife, and do hereby constitute and appoint Mrs. Sarah J. Robinson of Cambridge, State of Massachusetts, to be my true and lawful legatee under this instrument and entitled to all benefits arising therefrom.

In witness whereof I, the said Prince A. Freeman, have herunto affixed my hand and seal this thirteenth day of May in the year eighteen hundred and eighty-five.

(Signed)

PRINCE A. FREEMAN.

Then it is acknowledged before M. L. Busnach.

This is the application for the original insurance. And this is the certificate of the policy; it purports to be a policy for two thousand dollars. [Reading.] "This certificate is issued to Prince Arthur Freeman, a member of Governor Dudley Colony No. 28, located at Boston, Massachusetts," and it is made payable to Annie E. Freeman.

Q. This is Mrs. Robinson's receipt, on the back of that policy?

A. Yes, sir.

Mr. STEVENS. On the back of this policy appears her receipt, signed the 23d of September. You do not care to have her signature proved, Mr. Goodrich?

Mr. GOODRICH. No, sir.

Mr. STEVENS. [Reading.]

Received of the Supreme Colony of the United Order of Pilgrim Fathers the sum of two thousand dollars, it being payment in full of all claim and demand of every name and nature existing under the within certificate and in accordance with the laws governing fund of the Order, and this instrument shall be construed and considered as a full release and waiver of any further debt or demand.

Signed and sealed at Cambridge this twenty-third day of September, 1885.

Mrs. S. J. ROBINSON.

In presence of

LIZZIE A. ROBINSON.

A. V. BUGBEE.

FIELD, J. You may mark the application "A" and the policy "B".

Cross-examination.

Q. (By Mr. GOODRICH.) Mr. Shepard, when you received that assignment for record was it accompanied with any fee? A. I presume it was, sir.

Q. Do you know anything about it? A. I could not—any more than it should have accompanied it and I presume it did or I should have notified the Colony at once to have forwarded it if they had not forwarded it. It is only a matter of recollection—a matter of judgment.

Q. Do you know that the receipt of that was acknowledged? A. Yes, sir, I acknowledged it.

Q. How? A. By letter.

Q. Do you know of the existence of such a letter at the present time? A. No, sir.

Q. How do you know whether you sent a letter acknowledging it?

A. From the correspondence which ensued, knowing what the result was.

Q. Are you able to swear that you acknowledged the receipt of that assignment? A. I am, sir.

Q. Can you tell us upon what day you assigned it? A. I received it on the 27th of May — that is, the 27th of May or the day following.

Q. Of May? A. Yes, sir; the letter of transmittal was dated May 27.

Q. The assignment, I see, was not witnessed—I believe not. A. Yes, sir.

Q. Does it bear the attestation of any witness? A. I could not tell you, sir.

Mr. STEVENS. One witness, M. L. Busnach.

FIELD, J. The witness is the justice who takes the acknowledgment.

Q. (By Mr. STEVENS.) And what is the form of the receipt or the acknowledgment which you gave for this assignment? A. I think—I cannot give you anything more than the substance.

Q. Was it anything more than that you acknowledged the receipt of the assignment? A. It was in substance to the effect that I had made record of it. There was a long delay about it,—there was considerable delay; I declined to do anything about it for some time; it laid in abeyance for, I think, three weeks.

Q. (By FIELD, J.) After you received it? A. Yes, sir.

Q. (By Mr. GOODRICH.) What was your by-law in regard to the forfeiture for non-payment of assessments? Will you read that by-law? A. In substance it is that an assessment ordered upon the first of any given month shall be paid on or before the tenth day of the succeeding month. Failure of payment forfeits all right under the benefit certificate, but they are then given until the next regular meeting. If on or before the order of new business at the next regular meeting they come and pay the assessments due, with a fine of fifty cents, they are again in good standing. Failing that, they may apply to the board of directors, who may reinstate them under such conditions as they shall see fit to impose.

Q. Can you tell the jury whether or not on the twenty-fourth day of June, 1885, under your rules, the membership of Prince Arthur Freeman was forfeited or not? A. On the twenty-first day of June?

Q. Yes. A. I don't remember the number of assessments, but I presume he was in good standing, sir; I did not know anything to the contrary.

Q. Would your records show whether he was in arrears, and whether his policy had been forfeited or not? A. My record would show whether Governor Dudley Colony had paid me the proper amount of money, the amount of money which should be chargeable to that Colony for the number of members—it might be one hundred and twenty-five dollars for one hundred and twenty-five members. If they pay that amount of money I assume that all have paid. If it is short a dollar or two or three dollars, I inquire of the officers of the Colony who is short, who has not paid.

Q. Do you collect the money? A. The collectors of the subordinate colonies collect the money, the money is sent to the treasurer, and then he sends me a receipt for the amount he receives from the subordinate colonies, and I send it to the subordinate Colony.

Q. You cannot tell us what his arrears were on the 21st of June? A. Not from my personal knowledge; I did not know that he had any.

Q. It would not be your business to know it? A. He was, at the time of his death,—he died about the twenty-seventh or twenty-eighth day of June. An assessment was ordered upon all the members in the Order on the 7th of June. That remained unpaid at the time of his death. I notified the Colony that the Colony owed that forty-first assessment, that it was due on the 7th of June and should have been paid before his death by him, but it would not have forfeited his membership if it had not been paid.

Q. Do you know whether, under your rule, his membership was forfeited or not? A. I do not think it was, sir.

Q. Can you tell anything about it? Do you know anything about it? A. I should say that he was in good standing.

Q. Why should you say so? A. Because I presume that I got the proper amount of money from the Colony.

Q. Is it a matter of presumption with you? A. Oh, no; if the Colony pays me the amount of money which should be due for a given number of members—

Q. Do you know whether or not he was in arrears? A. I do not; I don't know but somebody might have paid his assessments for him.

Q. Supposing that the amount due from Prince Arthur Freeman on the twenty-eighth day of June, or on the twenty-second day of June was \$3.65—that there were two quarterly dues of seventy-five cents each due at that time and an assessment of one dollar and fifteen cents—that would make \$3.65; at that time would his membership, by the terms of your by-laws, have been forfeited or not? A. That two quarters' dues—I think the constitution of the Order allows them a longer time in which to pay dues. I do not think they suspend them until they are six months in arrears for dues, and then are given a month in which to pay their dues.

Q. Can you point to any provision in your by-laws to that effect?
A. I think I can, sir.

Q. Read the fourth section of article 10th and explain it, please.
A. [Reading.] "Any failure on the part of any member or the Order to pay an assessment duly ordered on or before the day it is due, shall of itself work a suspension of such member, and such suspended member and all persons claiming under him shall forfeit thereby all claim to the benefit fund." That refers to assessments.

Q. Then if there was an unpaid assessment due on the 22d of June, by the terms of that article all claims to the benefit fund would have been forfeited? A. That would depend upon what day of the month their next regular meeting came — if it was before their next regular meeting.

Q. Now, will you go on and show that? A. [Reading from section five.] "No member suspended for non-payment of an assessment shall be reinstated except by paying the same to the collector of his Colony, together with a fine of fifty cents for the benefit of his Colony, on or before the order of new business at the next regular meeting of the Colony calling such suspension."

Q. That reinstates them in the Order? A. Yes, sir.

Q. With the privileges of the Order? A. Yes, sir.

Q. Does it cure the forfeiture of the benefit? A. Yes, sir.

Q. Where do you find that? A. That is a matter of practice, I presume; it is not in the law. If a man is suspended on the 10th of the month, if he meets his collector on the next day, or any day prior to the next regular meeting and pays him the money and the fine, the secretary then notifies me that the money has been paid.

Q. There is no provision in the by-law that upon his reinstatement as a member of the Order, that thereby the forfeiture of the benefit shall be revoked? A. Nothing more than you see there, sir.

Q. And there would be no occasion for it, would there, because after being reinstated he would then, by virtue of his reinstatement become entitled, would he not, to a new benefit in the case of his death? A. He would be entitled to all the benefits he ever was entitled to.

Q. To those same benefits or some new ones? A. Those same benefits.

Q. That is the practice? A. That is the practice.

Q. Do you find anything in your by-laws which makes it a rule?
A. Well, the rule is a rule of practice; we so construe the by-laws that if a party pays his assessment in the time that is given him in the by-laws, he is then in good standing — he forfeits nothing.

Q. As a matter of practice you have allowed that? A. It has always been a matter of practice, sir.

Re-direct examination.

Q. (By Mr. STEVENS.) You received the assignments on the 27th or the day following? A. The letter of transmittal is dated upon the 27th of May.

Q. So you said you received it on that day or the day following? A. Very near that time.

Q. When did you enter it on the records? A. Somewhere about the 23d or 24th or 25th of June.

Q. (By FIELD, J.) You got that assignment from the subordinate lodge? A. Yes, sir.

Q. Is it directed to you? A. Yes, sir.

Q. And you received it on either May 27th or May 28th? A. Very close to May 27th; I have the letter of transmittal from the secretary of the Colony.

Q. And you sent a letter of acknowledgment to the subordinate lodge? A. I notified the secretary of the subordinate Colony along the 23d or 24th of June.

Q. And you say you entered the assignment as of record about the 23d or 24th? A. Yes, sir.

Q. At the same time, substantially, as you notified him? A. Yes, sir; at the time I made the record I notified him that I had made the record.

Q. (By Mr. STEVENS.) Did you acknowledge the receipt of the assignment immediately after receiving it? A. No, sir.

Q. Did not acknowledge it until the 23d of June or thereabouts? A. No, sir.

Q. Are you certain of the date—not before the 23d of June? A. Not before the 23d of June, sir.

Q. (By Mr. GOODRICH.) And it might have been how much later? A. It could not have been more than one or two days at the most. My action was based upon letters which I received from the Colony and the verbal statement which was made to me in regard to the case.

Q. And you answered it not before the 24th? A. I could not have answered it, I think, before the 23d; it was within a day or two of the 23d.

Q. (By Mr. STEVENS.) Was there any reason why you made that entry as of that date—the 23d, 24th or 25th of June? A. Yes, sir.

Q. On account of a correspondence that you had had with the officers of the subordinate Colony? A. On account of the correspondence that I had with Mr. Wiley and statements that were made to me.

Q. In regard to the case of Prince Arthur Freeman? A. Yes, sir.

Q. (By Mr. WATERMAN.) You knew he was living then? A. I knew he was not dead then.

ALBERT V. BUGBEE — *sworn*.

Direct examination.

Q. (By Mr. STEVENS.) What is your name, Mr. Bugbee? A. Albert V. Bugbee.

Q. You are the supreme treasurer of the United Order of Pilgrim Fathers? A. Yes, sir.

Q. Did you pay this money over to Mrs. Robinson? A. I did.

Q. How, check or cash? A. I think I paid her the cash.

Q. When? A. On the 23d of September, 1885.

Q. She gave you a receipt, I suppose? A. Yes, sir.

Q. She had the policy in her possession at the time? A. She had the benefit certificate.

Cross-examination.

Q. (By Mr. GOODRICH.) Mrs. Robinson presented the certificate to you, did she? A. Yes, sir.

Q. You gave the money or check to her personally, yourself? A. Yes, sir, I did; I carried it to her house in Cambridge.

Q. The certificate was the original policy which had been issued to Mr. Freeman, was it,—payable to his wife? A. The certificate that she presented to me—yes, sir.

Q. It did not bear her name anywhere—it shows for itself I believe? A. No, sir.

Q. Is that the certificate [Exhibit "B"] which she presented to you? A. Yes, sir. I did not pay it on presentation of that—at the first presentation I did not pay it.

Q. This was the original certificate issued to Mr. Freeman when he first became a member of the Order, was it? A. I presume so, I don't know.

Q. You knew nothing about where Mrs. Robinson got it or how it came in her possession? A. No, sir.

Q. Had it ever been returned to the office, do you know? A. I don't know anything about that; it would not be returned to me until it became a claim.

Q. (By Mr. STEVENS.) When did she first make application to you for the money? A. The twenty-second day of September.

DR. EDWARD R. COGGSWELL — *sworn.*

Direct examination.

Q. (By Mr. STEVENS.) *What is your full name? A. Edward R. Coggsowell.

Q. And you were formerly a physician, but I believe you have been retired from practice many years? A. Yes, sir.

Q. How long have you known Mrs. Robinson? A. I have known about her twenty-five or thirty years, but my special acquaintance has been within the last five or six years.

Q. She was engaged in your family? A. In my mother's family when I first knew about her.

Q. As a sewing woman? A. Yes, sir.

Q. After she received the two thousand dollars from this insurance, did she come to you? A. She came to me in September, I think, of 1885, and told me she was about to receive two thousand dollars insurance money from the Order of Pilgrim Fathers, payable in consequence of the death of Mr. Freeman, and that she had seen the treasurer, and that he told her he should pay it to her on a given day or shortly, and he should pay it to her in a check on the Pacific Bank, Lawrence, and told her that any person who kept a bank account would collect it for her; and she had come to me to ask me if, when the check was paid, I would do her the favor to collect the check, and I agreed to do it. Some time after that, within a few days, she handed me the check on the Pacific Bank of Lawrence, signed by Mr. Bugbee, I suppose in his official capacity, although I do not recollect, and I deposited it. When I received the proceeds of it I paid the money over to Mrs. Robinson and took her receipt therefor.

Q. Did she tell you anything about who she received that money for? A. She told me that she received the money at the request — by direction of Mr. Freeman, and that she was to take care of his child.

Q. Did she tell you what she was going to do with the money? A. She told me that certain bills had to be paid; that is, Mr. Freeman's funeral expenses and some expenses of that kind; and that the rest — I think she told me voluntarily that she expected to retain the rest of it for the benefit of the child, and I gave her some advice as to what she should do with it.

Q. What did you advise her? A. I told her she had better put the money into the savings bank and advised her what savings bank to put the money into; and paid her the money in such a form that she could do it, by giving her three checks, one for each bank.

Q. Did she tell you whether or not she did deposit the money in those banks? A. She did afterwards; some time afterwards.

Q. Now, did she? A. No, sir; she did not.

Q. Do you know what she did with the money?

FIELD, J. I don't understand what she told him.

Mr. STEVENS. She told him she had deposited the money in three saving banks.

The WITNESS. No; she told me afterwards that she had not. I advised her so to do, but she did not follow my advice.

Q. Do you know what she did with the money? A. Not to my personal knowledge. She told me she invested it in a mortgage in Chelsea.

Q. Do you know whether that was true or not? A. I have reason to believe it was not. I spent considerable time endeavoring to find out about it, and I could find no such person as she said had borrowed the money, no such land as she said was mortgaged to secure it, and I could not find any foundation for the story.

Q. Did you have any further conversation with her? A. Yes, sir; she afterwards told me that the money had been paid back to her — this money that she said she had loaned on a mortgage had been paid back to her.

Q. Did she tell you how much she loaned on a mortgage? A. I think either twelve or thirteen hundred dollars.

Q. Did she tell you what she did with it after she received it back? A. No, sir; that was — I don't think she told me any — I don't think she gave me any further information as to what she had done with it, but she simply told me it was paid back.

Q. When did you have that conversation with her? A. It was after the death of Lizzie Robinson and before Willie Robinson was sick, so that it must have been in the early summer of 1886.

Q. What were Mrs. Robinson's means, if you know, at the time you received this insurance? A. I only knew that they were limited; I could not say that I knew any details.

Q. Did she ever have any conversation with you with reference to being pressed by her creditors? A. No, sir. She at times had asked me for small loans of money which she said she needed, but she never told me about having many creditors pressing her or anything like that.

Q. Did you know when she went West? A. I heard about it, but I cannot say that I knew from any personal knowledge.

Cross-examination.

Q. (By Mr. GOODRICH.) Dr. Coggsell, she told you that she was to receive the sum of two thousand dollars? A. Yes, sir.

Q. That she had received it by the request, as you express it, of Mr. Freeman? A. Yes, sir.

Q. And she told you what she intended to do with it? A. No, sir, I don't think she told me at that time what she intended to do with it. She told me with the exception of a certain portion—she said that she wanted some ready cash to pay the funeral expenses of Mr. Freeman and some other expenses incurred by him, and then I advised her as to what she should do with the rest of it.

Q. What did you advise her to do with the rest of it? A. That she should divide it into three parts of five hundred dollars each and deposit it in three savings banks.

Q. And that was the extent of your advice, that she should deposit it? A. Yes, sir.

Q. So that she could draw it as she had needs for it? A. Yes, sir.

Q. For her own purposes? A. She told me that as a condition of her receiving it she was to take care of Freeman's child.

Q. You have not told us about that, yet. Did she say anything about the conditions of receiving it? A. That was the understanding—that she was to have the money and take charge of Freeman's boy.

Q. You said she expressed an intention—said that she was to take care of the child? A. Yes, sir; she gave me the impression that that was a part of the understanding—she was to receive the money and take care of the child.

Q. It was an impression that you received from what she did say—that she was to receive the money and to take care of the child? A. Yes, sir.

Q. But you did not advise her to deposit it in the bank in the child's name? A. No, sir; I did not advise her that she should deposit it in her own name or the child's name, but that she should put it in the savings bank.

At 6 P. M. the court adjourned to Wednesday, February 8, at 9 o'clock A. M.

THIRD DAY.

WEDNESDAY, Feb. 8, 1888.

The court came in at 9 A. M.

GEORGE A. CRAWFORD — *sworn*.

Q. (By Mr. STEVENS.) You are a clergyman? A. I am, sir.

Q. Reside in Waterville, Maine? A. Yes, sir.

Q. And reached here this morning? A. Yes, sir.

Q. You were the pastor of the church of which Mrs. Freeman was a member in South Boston at the time of her death? A. I was.

Q. And you visited her during her last sickness? A. I did.

Q. When did you first go there, if you remember? A. Within a day or two of the time she was taken sick; I can't remember the exact day.

Q. Did you continue to go there till the end of her life? A. Nearly every day, sometimes several times a day.

Q. Will you state now what you observed about her sickness from the time she was taken sick until she died? A. It was reported to me when I called as a case of pneumonia, and at about the end of a week it seemed she was recovering, that the doctor had the disease under control. I went there one day, when she had been sick a week or more, and found that the nurse who had been employed had been discharged, and that in her place there was a woman who introduced herself to me as Mrs. Robinson, the sister of Mrs. Freeman. I had quite a conversation with her.

Q. It was the prisoner whom you saw there, was it? A. Yes, sir; I had quite a conversation with her as to affairs in the family, inquiring as to their means of subsistence, and secured help for them, and visited as frequently as possible from that time to the time of her death.

Q. Did Mrs. Robinson say anything about how she came to be there? A. No, sir.

Q. Anything about the nurse? A. She said she hadn't found the nurse satisfactory, and had sent her away, and proposed to take care of her herself. The symptoms after that seemed to be varying.

Occasionally I would hear in the morning when I called there that she was feeling more comfortable, but sometimes she told me herself, and sometimes Mrs. Robinson told me, that she was not feeling as well, and suffered a great deal of fever, and was very restless and flushed in the face; and both of them said that they found it difficult to quench her thirst.

Q. Did they say she was troubled with nausea to the stomach?
A. I remember nothing of that kind.

Q. Did you notice any change in the symptoms after Mrs. Robinson came there? A. A very decided change, yes, sir.

Q. In what respect? A. She became exceedingly feverish and restless, and instead of gaining, as she had been doing, she began to run down.

Q. What about her thirst? A. Only as I have mentioned, that she herself expressed to me, and Mrs. Robinson expressed to me, or said to me, that her thirst was extreme, and they found it almost impossible to quench it.

Q. Do you know Mrs. Barker? A. Yes, sir, I do.

Q. She was a member of your congregation? A. Yes, sir.

Q. Did you get her to go there? A. I did, yes, sir.

Q. Do you remember whether she went before or after Mrs. Robinson came first? A. After Mrs. Robinson came.

Q. She went there at your request? A. At my request. She had with her a sister who was a professional nurse, and when I found that Mrs. Freeman's sister was caring for her, having the care of the household during the day and the anxiety, I thought it was too bad she should be obliged to work day and night; and I went and saw Mrs. Barker and her sister and asked, if they were not employed, that they would go up there occasionally and take care of Mrs. Freeman during the night.

Q. Did you have any conversation with Mrs. Robinson about the probability of her sister recovering, or about the disposition of the children and Prince Arthur after her death? A. She expressed her fear that her sister would die, but it seemed to me only a natural apprehension. She and I had several conversations about Mr. Freeman and the children living with her, — whether I began it or she I am not able to state, — and I certainly thought it best under the circumstances; and we discussed the question of a place where they might live. She said she had quite a family of her own, and it would be impossible for them to live in the two rooms, with the two smaller side rooms, that Mr. Freeman had. And I interested myself in trying to get a rent for them in South Boston, as Mr. Freeman's work was there; but after a while they informed me they had secured rooms in Cambridge.

Q. Did you see Dr. Beers while you were there? A. I saw a man there one day, — she had told me that a friend of hers, who was a doctor, had come to see her, — I could not swear it was Dr. Beers. I don't think she introduced him at all.

Q. Did he bring anything? A. I inquired one morning if they had money for buying the medicines and the whiskey which the doctor had prescribed, and she said that a friend of hers, who was a doctor, had been over to visit her and had brought some, so they had a sufficient quantity for that time.

Q. Did you see Prince Arthur Freeman during his sickness? A. I did not.

Q. After his death did you see him? A. I did.

Q. Have any conversation with Mrs. Robinson about him? A. I did.

Q. What was it? A. Of course, I inquired his symptoms, — what the trouble was. On Saturday night — if you will allow me to go back — I had received a message from her to the effect that he was sick and wished to see me; but I was sick myself, and had a hard day's work before me the next day, and thought if I came over to Cambridge I should probably spend the night, and so I sent her a message that I could not come and would be over as soon as possible, and went over on Monday morning. I inquired about his sickness, and she said he had gone to his work in South Boston on Monday, taking his dinner with him, and had been taken so very sick after dinner, vomiting, that he had been obliged to return home, had then taken to his bed, and had gradually failed, without any special pain or suffering, and that the doctors said he died because he hadn't spunk enough to get well.

Q. Did she make any communications to you about having received any message from her dead friends? A. I remember nothing of that kind, sir.

Q. That is all, unless you recall something further. I will ask you if you know what her treatment was of Prince Arthur; perhaps you know nothing about it? A. I know nothing about that, sir. I rode to and fro from the grave once with her; that is all.

Cross-examination.

Q. (By Mr. GOODRICH.) Did you attend the funeral of Mrs. Freeman? A. I did; yes, sir. She was buried from the church, what was then called the Broadway Church.

Q. She was not buried from the house, then? A. No, sir; the house was not large enough to accommodate anybody.

Q. Do you remember who rode to the grave from the church with Mrs. Robinson? A. I do not.

Q. Do you remember whom Prince Arthur himself rode with? I do not; no, sir. I remember it was an exceedingly cold day; that is all I remember about that day.

Q. Mrs. Robinson expressed to you some apprehension about her sister's recovery, but you say no more than seemed to you to be perfectly natural? A. Yes, sir; it didn't attract my attention; it was a natural apprehension for a sister.

FLORENCE A. STANWOOD — *recalled*.

Q. (By Mr. STEVENS.) Did Mrs. Robinson say anything as to whether Lizzie should become insured if she obtained the money from Prince Arthur's insurance? A. Yes, sir.

Q. What was it? A. At the time the check was paid to her — I went over there in the afternoon to spend the afternoon — she went into the chamber and took out the check and showed it to me, and she says, "Now, Lizzie, that we have got the money, you can join the Order; you shall have some gloves and little extras," she says, "as soon as we have got the money."

Q. And Lizzie afterwards did join the Order? A. Yes, sir.

Q. Did Mrs. Robinson go away to the West after that? A. In November, I think.

Q. How long was she gone? A. Well, she was home in February when Lizzie was sick; she was at home in January, I think.

Q. She got home in January? A. I wouldn't say positively whether it was January or February, but I think it was in January.

Q. Was it before or after she removed to Somerville? A. After.

Q. Did you go to the house in Somerville after she had removed? A. At the time Lizzie was sick, not before; she sent for me to come.

Q. Did you notice any change in the appearance of the house from what you had observed at the house where she lived while Prince Arthur was sick? A. Yes.

Q. What was the change? A. For the better, decidedly.

Q. In what respect? A. In the carpets, furniture, piano.

Q. Have any conversation with her about it? A. About her carpets and piano I did.

Q. What did she tell you about the carpets? A. I made the remark what a pretty carpet it was, and she said, "Yes, it is one I had before Moses died, and it has been in storage all this time; hasn't it kept nicely? And it just fits this room."

Q. (By Mr. WATERMAN.) Moses was her husband? A. Yes, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) Can you tell us when this assessment became due that you said was due and unpaid at the time you called upon Mrs. Robinson? A. Yes, sir.

Q. When was it? A. It was due the first day of June, it was called the first day of June; it was payable from that time until the tenth day of July.

Q. When were these quarterly dues payable? A. They are payable three months in advance.

Q. There were two amounts in arrears at this time? A. Yes, sir; when in arrears they are not suspended until they are six months overdue.

Q. Is that by practice or by the by-laws? A. By the by-laws, I think.

Q. There was \$1.15 due besides the two quarterly dues? A. Yes, sir.

Q. And the quarterly dues were how much? A. Seventy-five cents.

Q. And that \$1.15 was one assessment or more than one. A. One assessment.

Q. Of \$1.15? A. Yes, sir.

Q. That you say was one called on the first day of June? A. Yes, sir.

Q. She said Lizzie could now get insured? A. Yes, sir.

Q. How much does it cost to join that Order? A. It costs about \$5.25 to join the Order.

Q. That is the whole expense attending membership in the Order, is it? A. For initiation.

Q. To become members? A. Yes, sir.

FLORENCE W. LEWIS — *sworn*.

Q. (By Mr. STEVENS.) You are employed by J. N. Roberts & Co., brokers, Boston? A. Yes, sir.

Q. Did you take a mortgage at any time from Mrs. Robinson on her furniture? A. Yes, sir.

Q. What was it?

[Objected to.]

FIELD, J. It is a written paper, and if it can be produced that is the best evidence.

Q. (By Mr. STEVENS.) Have you there a copy of the mortgage? A. No, sir, not of that one, not of the first one.

Q. I mean of the mortgage that was paid in the fall of 1885. A. No, sir; when it was paid it was discharged, and she took the papers.

Q. Have you a copy of the mortgage, I asked? A. I have not.

Q. Did she make any payment to you in 1885? A. Yes, sir.

Q. When? A. Oct. 2, 1885, she paid up her mortgage.

Q. How much? A. Eighty dollars.

Q. Was this money paid to you? A. I am not positive about that; I think so.

Q. Did she make the negotiation with you when she obtained the money? A. In May, 1881, do you mean?

Q. I mean when she made the negotiation for that money which she paid you in 1885. A. No, not at that time.

Q. Did she at any time have any conversation with you in which she told you what her name was? A. Not about that mortgage.

Q. Did you at any time have any conversation with her in which she told you what her name was? A. Yes, sir.

Q. When was it?

MR. GOODRICH. I don't see how that is material to this inquiry.

FIELD, J. What do you want to prove?

MR. STEVENS. I want to prove she obtained money in a different name than her own name. I shall put in later copies of the mortgages.

FIELD, J. What do you offer to prove now?

MR. STEVENS. I offer to prove now she obtained this money under the name of Emma M. Robinson.

FIELD, J. What do you offer to prove by this witness?

MR. STEVENS. I want to prove by this witness she had some conversation with the defendant with regard to her name.

FIELD, J. When?

Q. (By MR. STEVENS.) When did you have any conversation with her about her name? A. July, 1886.

Q. Did you prior to that time? A. No, sir.

FIELD, J. That was after this.

MR. STEVENS. Does the court exclude it?

FIELD, J. Standing alone we think it is inadmissible; unless it is connected with something prior.

MR. STEVENS. I think so, and I shall connect it before I get through with the mortgage given by the defendant in the name of Emma M. Robinson; and some conversation took place afterwards between this witness and her in reference to her having given that name of Emma M. Robinson.

FIELD, J. When do you expect to show the mortgage was given?

MR. STEVENS. The first one in 1881, and one afterwards; I can't tell the date of the mortgage. I expect to prove that on May 25th, 1881, a mortgage was given for forty-five dollars signed by John and Emma M. Robinson, and that that was paid October, 1885, with this money; that they supposed her name to have been Emma M. Robinson, and did not discover the fact it was not until a subsequent period, and then this witness had a conversation with her as to why she gave that name.

FIELD, J. You offer to prove a conversation in July, 1886, and you say it relates to a transaction that was originally entered into in 1881?

MR. STEVENS. Yes, and it was closed in 1885, when this insurance was paid, and the money was used for that purpose.

FIELD, J. We don't now see the competency of the evidence.

MR. STEVENS. We shall introduce evidence that she had obtained money under various names, that she was threatened with arrest for having obtained money under false pretences, and we shall claim that was one of the motives, or one of the reasons, why she was so anxious to obtain money.

FIELD, J. I understand you to ask this witness about a conversation said to have taken place in July, 1886, with the defendant with regard to her name?

MR. STEVENS. With regard to her name, which she had given at a prior time.

FIELD, J. As far as you know given in 1881?

MR. STEVENS. In 1881, but which she had used up to 1885.

FIELD, J. We exclude it.

JONATHAN W. CLOUGH—*sworn*.

Q. (By MR. STEVENS.) What is your business? A. Real estate agent, mortgages and insurance.

Q. Your place of business is in Boston? A. The Five Cents Savings Bank building on School Street.

Q. Did you meet the defendant on the fourth day of October, 1882? A. I did.

Q. For what purpose? A. She came to borrow some money.

Q. How much did she borrow? A. She borrowed forty dollars.

Q. When did she pay it? A. She paid it October 2d, 1885.

Q. How much did she pay you? A. She paid one hundred dollars.

Q. At any time did you go to see her about paying that money? A. I did.

Q. It was secured how? A. By mortgage on furniture.

Q. When did you go to see her first about it, if you remember? A. Perhaps within two or three months.

Q. You may state any conversations you had with her. A. I don't remember any distinct conversation I had with her, excepting she couldn't pay her interest promptly, and was delayed.

Q. Did you have any conversation with her about the time of Freeman's death? A. I called at her house, 54 Boylston Street, Cambridge, and she said she would soon be able to pay me in full.

Q. When was that? A. That, I think, was some time in the latter part of August or first of September, 1885.

Q. Did she tell you how she was going to pay you? A. She said her brother-in-law had died and that she was the beneficiary of an insurance policy to the extent of two thousand dollars, and that some officer of the company, the treasurer, perhaps, had been there, and the matter had been looked over, investigated, and it was all right and was going to be paid, and she would soon be in possession of funds, and then she would come and pay me.

Q. The exact amount paid on October 2 was one hundred dollars? A. Just one hundred dollars.

Q. Oct. 2, 1885? A. Yes, sir.

EDWARD TOBIN — *sworn*.

Q. (By Mr. STEVENS.) What is your business? A. Real estate and insurance.

Q. Whereabouts? A. Boston.

Q. Do you loan money on mortgages? A. Sometimes.

Q. Did you see the defendant on the 3d of November, 1883? A. I met Mrs. Robinson.

Q. What did she say to you? A. She said she wanted some money on some furniture.

Q. How much did she tell you? A. Eighty dollars.

Q. How much did you let her have? A. I let her have eighty dollars, two dollars expense of the mortgage, — eighty-two dollars.

Q. When did she pay that to you? A. She paid that Oct. 2, 1885.

Q. How much? A. One hundred and twelve dollars.

Q. Did you have any conversation with her as to what her name was when she came for the money? A. No, sir.

Q. Did you go to see her afterwards in reference to paying the money? A. I did go to see her, but not with regard to paying the money.

Q. Have some conversation with her? A. I did, sir.

Q. When was it? A. That was about ten or fifteen days after I took the mortgage.

Q. Where did she live at that time? A. She lived then at 15 Holyoke Street, Cambridge.

Q. What was that conversation? A. The conversation was with regard to a mortgage she gave to Mr. Desmond.

Q. State the conversation you had with Mrs. Robinson. A. That is the conversation. I asked her in regard to a mortgage she gave to Mr. Desmond and her giving me a mortgage on the same property.

Q. Did you say anything to her about her name at that time? A. No, sir.

Q. What did you tell her? A. I told her it was not right to give a second mortgage on her property. I told Mrs. Robinson that Mr. Desmond told me he held a mortgage on her property, and that it was not right for her to give me a mortgage on her property at the same time.

Q. Anything else? You haven't stated all the conversation?
A. She said she would pay it very soon.

Q. Have you stated now everything that was said? A. Yes, sir, at that time.

Q. When did you see her again? A. I don't remember; perhaps it was a month, perhaps it was two months.

Q. What was the conversation then? A. She said there was a party in Cambridge who would pay the money, a gentleman.

Q. Did you see her again and have any conversation with her?
A. Well, I believe I saw her in Hughes Street, where she moved to.

Q. When was that? A. I couldn't say.

Q. What was that conversation? A. With regard to the mortgage.

Q. What was it? A. To pay the money.

Q. What did you tell her? A. I told her it should be paid.

Q. Is that all? A. That is all.

Q. Any other time? A. No; I don't think I saw her after that; not that I remember.

Q. Now, at any time, did you have any conversation with her in reference to the name under which she had obtained the money from you? A. Oh, I asked her in regard to that, and she didn't deny it.

Q. You asked her what? A. I asked why she gave an assumed name.

Q. What name did she give? A. Addie Marshall.

FIELD, J. How is it material what name she gave?

MR. STEVENS. Because it will appear she had mortgaged her property under different names, and this witness had conversation about it and threatened her with arrest for having obtained money under false pretences. If she were threatened with arrest for having obtained money under false pretences, it has great force as showing a motive which would induce her to get money to repay it.

FIELD, J. But how does the fact of her giving a false name have any effect, unless it is connected with threatening her with arrest?

MR. STEVENS. I will connect it before I get through with this witness.

Q. At any time did you have any conversation with Mrs. Robinson in which she was threatened by you with arrest? A. I didn't press her hard for the money.

Q. Did you have any conversation with her in regard to her being

arrested for having obtained the money under a false name? A. I did not.

Q. Did you send one Cunningham? A. I did, sir.

Q. He went from you to her to collect that money? A. Yes, sir.

GEORGE CUNNINGHAM — *sworn*.

Q. (By Mr. STEVENS.) What is your business? A. Sheriff's keeper.

Q. Were you employed by Mr. Tobin to make collections for him? A. I was, sir.

Q. Were you employed by him to make collections of Mrs. Robinson? A. I was.

Q. Did you go to see her? A. I did.

Q. When was it? A. The latter part of September, 1885.

Q. Have any conversation with her? A. Well, a very little conversation.

Q. What was it? A. I went there and told her I came there to see her for Mr. Tobin; she said she knew Mr. Tobin. And I told her Mr. Tobin had a charge against her in regard to a mortgage bill. She said yes, and she wanted to pay him, and she was willing to pay him; and she said she was waiting for some insurance money which was coming, and took me for the insurance agent coming upstairs, when I rang the bell.

Q. Did you see her at any other time? A. I saw her the second day after that, I went there.

Q. Had you seen her before? A. No, sir.

Q. Did you see her at any other time when you had any conversation with her about the name under which she had obtained this money? A. No, I don't know as I did.

Q. How many times do you say you were there altogether? A. Somewhere about seven times.

Q. Did she have any conversation with you at any time, or did you have any conversation with her, in which it was said that obtaining money under a false name was an offence for which she was liable to be arrested?

Mr. GOODRICH. I don't think the foundation for that has been laid. The witness has denied having any conversation about her having assumed any false name.

FIELD, J. I think if this witness had any conversation with her before the death of Mr. Freeman, in which any threats were made for arresting her or pressing her by reason of her having obtained a loan of money which was not paid, or the manner in which she obtained it, the conversation can be shown.

Q. (By Mr. STEVENS.) Did you have any conversation with her

in reference to her liability to be arrested for having obtained money on a mortgage by giving an assumed name, before the death of Mr. Freeman? A. Before the death?

Q. Yes. A. No, sir.

DANIEL W. DESMOND — *sworn*.

Q. (By Mr. STEVENS.) What is your business? A. I am a real estate and money broker, School Street, Boston.

Q. Do you know the defendant? A. The first time I saw the defendant she came to my office the latter part of September, 1883. She applied for a loan of money, seventy-five dollars or one hundred dollars, and she said she wanted to put up her household furniture as security. She introduced herself to me as Mrs. Mary Allen, being a widow. I made an appointment to meet her at her house and see her furniture and make her a loan. She lived then on Holyoke Street, Cambridge. I went to the house by appointment; she came in from the yard and met me at the door, and she showed me her furniture, and I agreed to make her a loan of seventy-five dollars. I made an appointment for the time she should come to my office and get the money. She came at the appointed time, and the mortgage was executed, and I paid her partly in money. I asked her to show me something to identify her, and, also, so I might know her furniture was paid for. She said she had lost her receipts, but she thought she had laid some away somewhere, whereby she might at least identify herself. When she came in I asked her to show me something or other, and she said she forgot them, but would send them in afterwards. I asked her if she didn't have anything about her to identify her, even; she said no.

Mr. GOODRICH. I don't see the competency of it. It was a subsequent interview.

FIELD, J. I don't see the competency of it now.

Q. (By Mr. STEVENS.) Did you have any conversation with her about the payment of that money afterwards? A. Shortly afterward I went to her house —

Q. (By FIELD, J.) When was that money paid? A. The money was paid to her that 26th of September, 1883.

Q. When did she repay you? A. The fifth day of October, 1885.

Q. (By Mr. STEVENS.) How much money? A. She repaid me one hundred and forty-four dollars, I think.

Q. Now, I want you to state the various conversations you had with her? A. I had a good many interviews with her.

Q. In reference to the payment of this money? A. I had an interview with her in the first place as regards the fictitious name.

Q. What was that? A. That was less than a month after I gave her the money.

Mr. GOODRICH. That I object to.

Q. (By FIELD, J.) That would be when? A. October, 1883.

FIELD, J. The mere fact, — if it be a fact, — that she borrowed money under a fictitious name is immaterial in this case, whether it be true or not. The fact — if it be a fact — that within a reasonable time before the death of Mr. Freeman she had borrowed money and needed money to repay it, and was urged to pay it, and if there are facts connected with that loan that made the pressure a more severe one than ordinarily, facts connected with it whereby she could be arrested, or was threatened with arrest, because she did not pay it, and that was within any time that the scope of the evidence shows it might have been an operative motive in this case, these would be competent. But if it were so far back that it is not within the scope of the evidence in this case, it is incompetent, unless there is evidence that the pressure continued up to a time which brings it within the evidence of motive in the cause that is on trial.

Mr. STEVENS. I suppose I shall show by this witness that he had been constantly pressing her for the payment of that money from that time up to the time Prince Arthur Freeman died. He had a conversation with her in May, just before the death of Prince Arthur.

FIELD, J. There is no objection to putting in any evidence that he was pressing her for the payment of this money when or before Prince Arthur Freeman died; and if there were any threats of arrest by reason of any circumstances of the loan, within a reasonable time of his death and within the scope of the evidence in this case, showing any motive on her part, that is competent evidence. But whether a conversation as far back as 1883 was continued, whether the pressure, if any existed then, was continued so as to bring it within the scope of the evidence here, I do not know. Standing alone as far back as that, it would be too remote; but if it were continued and repeated and was operative, a threat to arrest would be competent evidence.

Mr. STEVENS. I understand that there was continued pressure, as I have stated to the court, and I suppose I shall show it by this witness.

FIELD, J. Why don't you show first the conversation he had within six months of Mr. Freeman's death?

Q. (By Mr. STEVENS.) From February, 1885, — you may confine yourself now to any conversations you had with her — that was the time when Annie Freeman died, recall any conversation you had with her after the middle of February, 1885? A. February, 1885, she resided on Hughes Street, I think. I had two or three conversations with her in that house.

Q. What were they? A. I went there once when I was out to ride in a sleigh with a friend; and she said, "Mr. Desmond, we have

had another death in our family since I saw you." I have forgotten what member of the family, but I think it was a child at that time. I had a general conversation with her about how she was getting along, etc. I don't remember anything particular at that time in that house. The next time she lived on another street, I don't remember the number. Finally, in May, 1885, — the fifth day of May, 1885, I had a long conversation with her, when she lived in the house on Boylston Street, Cambridge.

Q. Tell what that conversation was? A. It was the longest conversation I ever had with her. I went there on the fifth day of May, 1885. She was not in when I called. I waited till she arrived home. She gave me five dollars, the last and the only money she ever gave me with her own hand. I fix the date by the payment of that money. She told me there had been another death in the family, — I think she told me that every time I called at the house. I said, "Mrs. Robinson, you must have had a pretty numerous family, you have had so many deaths; it can't be possible. I never have seen your family; you don't allow me to see them. I never knew you had any family, any more than yourself." She says, "Well, my family has increased now; my brother-in-law has come to live with me, and, really, my family is made up of two families now, my brother-in-law's children." She told me at that interview her brother-in-law was dead, in the first place.

Q. She told you in the first place her brother-in-law was dead? A. Yes, but she changed that before I left the house, changed it to her sister. We had quite a conversation about her changing what she had told me.

MR. GOODRICH. In regard to the time, Annie Freeman died in February, 1885, and if this evidence is being admitted in regard to the motive for her death, so far as that is concerned it could not apply, it being subsequent to her death.

FIELD, J. This evidence is subsequent to the death of Annie Freeman, but before the death of Prince Arthur Freeman.

MR. GOODRICH. It could not have operated, then, under your Honor's suggestion, as a motive in connection with Annie Freeman, at least.

FIELD, J. What she said about it afterwards, as well as before, relating to the subject-matter, would be competent. We think the conversation is competent.

Q. (By Mr. STEVENS.) Go on, Mr. Desmond. A. Let me get on to the thread of my story again.

FIELD, J. You said she then said it was Prince Arthur who had died.

THE WITNESS. I spoke to her in a doubtful manner, as though I didn't believe her.

FIELD, J. State what you said, and what she said, in substance.

The WITNESS. I said, "It is very singular you are having so many deaths in your family; can it be possible?" She says, "Yes, I think I shall lose them all; I think they will all die, all go in the same way." Said I, "Why, what appears to be the matter with them?" She said, "I think they are in a general decline;" that is the way she expressed it, in a general decline.

Q. (By Mr. STEVENS.) Now, come down particularly to what was said about the payment of that money; anything that she said about Moses Robinson, or about where she should obtain the money to pay that? A. We talked a good deal about insurance; we had talked a good many times before about insurance and about her husband. She had a suit in court against the insurance company to recover on the death of her husband.

FIELD, J. State what she said and what you said.

The WITNESS. We talked about it, and I asked her if it had been tried; I understood it had been tried in the Superior Court. She said it had been tried, and in that court it had gone against her, but her counsel had assured her that the law point was in her favor, but that the action would be reversed, and she thought she would recover the money finally. I told her I had seen her attorney, and while it was possible she might, I had very serious doubts whether she would ever recover on that policy. And in the course of the conversation she asked me what I thought of these insurance companies. I asked her what kind of company she referred to, and she said those kinds where, in the case of a death, each party pays in money. I said, "You mean these new companies that have sprung up recently, called mutual companies?" She said yes. Said I, "I always have heard a good report of them. I don't belong to any of them myself, but I understand they are good reliable concerns." That is all that there was said about insurance, outside of what we began conversation about. At that time I asked her what her prospects were, if she was depending wholly on this money she was going to get from her husband. She said, "No, I am going to get a large sum of money. I am going to be all right shortly. I can see my way clear now. I do not rely upon this money I am going to get from Mr. (Crane?)." "Why," said I, "where is this coming from?" "Oh," said she, "I am going to get it; it is all right, I shall have plenty of money to pay you off. You have been very kind and waited for me, and I shall pay you all your money, principal and interest. I shall also pay Mr. Tobin." She and I had been talking about Mr. Tobin and other parties previously. Said I, "Well, you are very fortunate; where is it coming from, Mrs. Robinson?" "Well, I cannot tell you that," she said, "but you will get your money." "How much

are you going to get? How much money?"—this being a large amount. "How much?" "It will be several thousand dollars." I think I put that question to her three or four times, and she gave me the same answer. Said I, "About how much?" "Well, it will be thousands." "Well, how many thousands?" "Well, it will be two, three, or four thousand; not less than two." "Well, now, Mrs. Robinson, why not tell me where it is coming from. You have got my interest awakened, you are owing me a good deal of money, you have told me false stories several times, why not tell me where it is coming from?" She said, "I cannot tell you, Mr. Desmond; the parties do not wish me to say anything about it." That was the language, as near as I can recollect it.

Q. (By Mr. STEVENS.) Did you make any reply to her? A. Well, we had a good deal more conversation. I got up to go. I turned around, and I said, "Mrs. Robinson, what is this mystery about you and your house? It has continued since I first saw you up to this very time, and to-day it is mystery upon mystery. Pray tell me what it is?" She was sitting in her chair, and she put her hand on the arm, and she said, "What mystery?" Said I, "That is what I want to know,—what mystery. I cannot tell, but there is some mystery that I have not been able to ascertain."

Q. Now, did you at any time have any conversation at that interview, or at any interview after the death of Mrs. Freeman, or after February, 1885, in which anything was said about her liability to be arrested? A. Well, not until I ascertained that she had this money, this two thousand dollars that she got from Prince Arthur.

Q. I do not care about any conversation after that. Now, before that time,—you need not answer this question if it is objected to,—had you had any conversation with her in which her liability to be arrested had been mentioned? A. I cannot say that I had. I had it first about a year after I loaned her the money.

Mr. STEVENS. I want to put that in now.

Mr. GOODRICH. I understand that has been excluded once.

FIELD, J. Unless there is some evidence of continued pressure upon her, we think it is incompetent.

Q. (By Mr. STEVENS.) I will ask you now: How often had you had conversations with her in which you had been demanding money from her? A. Well, a good many, but I cannot say how many. After I got over the excitement of her getting my money under false pretences,—after I got over that I cannot say that I made any pressure especially, for a certain reason; I did not do it until I found that she had the money to pay and was not willing to pay.

Cross-examination.

Q. (By Mr. GOODRICH.) Where is your place of business?
A. At 21 School Street, Boston.

Q. And was, at the time that you loaned the money to Mrs. Robinson? A. Yes, sir.

Q. And your business before was what? A. I am a real estate man, and I have loaned a little money, and so forth. I call myself a broker. That covers the case.

Q. I will ask you whether your real estate transactions or your loans of a little money are the more numerous? A. I cannot tell you; because the loaning of money and the real estate business are quite different things.

Q. I want to know whether your personal property money loans were your principal business? A. Oh, no; I am a real estate broker and that together.

Q. Is the principal part of your business the loaning of money on personal property or mortgage? A. I do not so consider it; I rather consider that a side issue.

Q. About how many mortgages did you have at this time? A. I don't know.

Q. Give us an estimate. A. Well, I had both real estate and chattel mortgages.

Q. No, but the chattel mortgages, the personal property mortgages, — how many did you have? A. I cannot say, really.

Q. Give us the best idea that you can. A. Well, it would be a pretty rough guess to guess on that.

Q. How many have you got now? A. I cannot tell that, even.

Q. Well, give us an estimate. A. Oh, I guess I have got fifty mortgages on personal property.

Q. Do you think you had any less at that time? A. I don't know; I cannot say.

Q. Have you any reason to suppose you had any less at that time than you have now? A. Well, I don't know; I was doing about the same business I am now.

Q. That is what I want to get at. Then about fifty chattel mortgages, as near as you could judge? A. It is the roughest kind of rough guessing. I could tell if I had my books here.

Q. Your transactions are so numerous you could not give us the number of them without an examination of your books? A. Well, they are very changeable; they are short-lived transactions, these chattel mortgages.

Q. The loan was seventy-five dollars? A. Yes, sir.

Q. What was the principal when it was paid? A. The principal

when it was paid was one hundred and forty-four dollars, I think [referring to a paper] — one hundred and forty-six dollars.

Q. (By Mr. STEVENS.) What was the date of that payment?

A. The date of the payment was the 5th of October, 1885.

MANSON ELLIS — *sworn*.

Q. (By Mr. STEVENS.) You are employed as collector by Boyce Brothers of Boston? A. I am, sir.

Q. What is their business? A. Furniture and carpet dealers.

Q. Did you have any claim against Mrs. Robinson to collect? A. Yes, sir.

Q. What was it? A. For furniture and carpets, as I recollect.

Q. For how much? A. I think about one hundred and twenty-five and some odd cents.

Q. When was it paid? A. That I could not tell without referring to my book.

Q. Well, look at your book and answer. A. Paid October 3, 1885.

Q. How much? A. The whole amount, sir?

Q. Yes. A. \$125.57.

Q. It was paid that day, was it? A. No, not the whole of it; it was paid at different times.

Q. How much was paid on September 23? A. \$58.57.

Q. Now, how much was paid in October? A. On the 3d of October, \$53.57.

Q. Was it paid to you? A. Yes, sir.

Q. Have any conversation with her about it? A. Nothing particular that I remember.

Q. Did she tell you where she got it, — where it came from? A. No, sir.

FIELD, J. I did not understand how old this claim was.

Mr. STEVENS. I did not ask him.

Q. How old a claim was this? A. The goods were bought Aug. 6, 1883.

Q. It was furniture bought on instalments, was it? A. Yes, sir.

JAMES W. HIGGINS — *sworn*.

Q. (By Mr. STEVENS.) You are a clergyman? A. Yes, sir.

Q. You are pastor of the church of which Mrs. Robinson was a member? A. No, sir.

Q. At that time were you? A. She never was a member of the church.

Q. She was an attendant at the church? A. An attendant.

Q. Did she owe you any money? A. At one time I signed a note for her to the amount of forty dollars.

Q. What was the occasion of that?

Mr. GOODRICH. It is not material unless it occurred within some time that will make it material.

Q. (By FIELD, J.) When was it? A. The ninth day of September, 1884.

Q. (By Mr. STEVENS.) When was that paid? A. That was paid some time in 1885 — just when I could not say, but some time after the beginning of the year, a number of months.

Q. Do you remember whether it was after Prince Arthur Freeman died? A. I did not know of his death save in conversation with a friend who told me she had received two thousand dollars or was about to receive two thousand dollars.

Q. Was it after you learned that she had received this insurance money? A. That I was told so.

Q. How much did she pay you? A. She paid me forty dollars on the note and either ten dollars or fifteen dollars of money that was due to the church for the treasurer.

Q. What was this money for? A. Her child Emma had died on the 6th, and on the 9th I was to attend the funeral. In the morning her son came to me and said —

Mr. GOODRICH. No matter what the son said.

The WITNESS. The undertaker refused to take charge of the funeral, because he said —

Mr. GOODRICH. Never mind about that.

Q. (By Mr. STEVENS.) No matter about that. But you went to the undertaker. A. I went to the undertaker, and eventually I signed a note for three months.

Q. Then afterwards you and Mrs. Robinson had some conversation? A. Yes, sir.

Q. What was that? A. I told her I had reason to believe that she was not acting honestly in this transaction and in others. I had a long conversation, in which I mentioned a number of instances where I was led to believe she had not acted honestly, — cases in which I had evidence which I could believe, on which I could rely. She denied them, and afterwards, when I pressed her, she acknowledged, — either acknowledged the truth or remained silent. In some cases she acknowledged the truth and in some cases she remained silent.

Mr. GOODRICH. I think this conversation is of a character which does not make it material in this case.

FIELD, J. I do not think it is competent. The fact that she owed money and was asked for it is competent.

Q. (By Mr. STEVENS.) Did she have any conversation with you

when she paid you? A. Very little. She said the Lord had been good to her, and she had some money to pay her bills.

Q. (By KNOWLTON, J.) That was at the time of the payment?

A. That was when she paid me.

Q. (By FIELD, J.) Can you fix the time more nearly when she paid you? A. I cannot, I have no data. I have seen the treasurer, to whom I paid the money over at once, the entire sum.

Q. You say it was in what year? A. In 1885.

Q. In what part of the year? A. It was some time after the summer.

Mr. STEVENS. Now I suppose we shall have to take a ruling of the court as to whether or not we have the right to put in evidence of the death of Thomas Arthur Freeman.

[At the direction of Field, J., the jury were taken to their room.]

FIELD, J. The subject was argued at the beginning of the trial. We sent the jury to their room that you might make, if you chose to, a more definite statement than you made then of what you proposed to prove, and its connection with this case. We will hear any argument you may choose to make now and any argument from the other side, and then we will decide it.

Mr. STEVENS. The government has already offered evidence that this money was received for the purpose of taking care of Thomas Arthur Freeman, and the position of the government is that the motive which induced this woman to kill Prince Arthur Freeman was for the purpose of getting two thousand dollars to use for her own benefit. We have introduced evidence that she had used between five hundred dollars and six hundred dollars of that money for the purpose of paying off her own debts; that she had moved to Somerville and fitted up, at how much expense we cannot definitely say, a house; and that she afterwards used a portion of the money in making a trip to the West. Now, we offered to introduce evidence to show that after she had received this money and had spent a portion of it, — we don't know how much, and we don't know how much more, — she referred to little Tommie in this way —

FIELD, J. All this was after the death of Prince Arthur?

Mr. STEVENS. After the death of Prince Arthur — that he had better be dead than alive, that he was likely to follow in the footsteps of his father if he lived to grow up, that she had used so much of the insurance money that there was not enough to take care of him; and then we shall introduce evidence, if we are allowed, to show that she predicted, before he was taken sick, that he was going to die; that she had had a message in a dream from her daughter Lizzie and from her sister Annie, in which they said they were coming for Tommie, Thomas Arthur. She said no, oh no, they could

not have him; but Annie flew away, and she thought he was going to die. He was afterwards taken sick, very soon afterwards, with the symptoms of arsenical poisoning, was nourished by Mrs. Robinson, and died, without any question, from the effect of arsenic which he had received in some way and at somebody's hands. Now, we say that this evidence is admissible because it relates back. And furthermore, we shall put in evidence to show that she said after Thomas was dead, that that insurance went to her now; that she had conversation with some of the relatives of Thomas, in which the insurance was referred to. She had previously told them that that money had been given to a guardian, a doctor who paid her six per cent. interest and who held it for the benefit of the boy. And then some conversation took place with Mrs. Melvin, I think it was,—perhaps with Mr. Freeman's mother,—after the death of Thomas Arthur, in which reference was made to the insurance. And that then she said that the insurance was absolutely hers and she was to have the benefit of it. Whether the insurance was all gone at that time, I do not know. Now, this testimony of the death of Thomas relates back and explains more fully the real motive and the strength of the motive which induced her to kill Prince Arthur. It shows that she did not receive the money for the purpose of using it to take care of Thomas Arthur, but has a tendency to show that the real purpose and the real motive was, not the alleged motive by which she had received it, for the purpose of taking care of Thomas Arthur, but was for her own personal benefit. If we can show that her purpose was to take this money and use it for her own ends, and not for the purpose of taking care of that boy, it adds very much to the strength of the government case, because it shows what the real motive was; and I cannot conceive of any evidence that could be introduced which would have a stronger effect.

FIELD, J. You have been permitted to show what she did with the money.

Mr. STEVENS. Only a portion of the money.

FIELD, J. No evidence has yet been excluded as to what she did with this particular money.

Mr. STEVENS. No, but she got this particular money, and we have shown that she disposed of five hundred dollars or six hundred dollars of it.

FIELD, J. We have not excluded you from showing what she did with all of it.

Mr. STEVENS. We cannot show what she did with all of it, but we say this: That she had it for the purpose of taking care of Thomas Arthur Freeman. We do not know how much money there may have been left,—there may have been one thousand dollars, or

not,—but if we are allowed to show that she killed Thomas Arthur Freeman, if there was anything left she had that benefit; if there was not, she had used it up when she ought not, and it was an inducement then to kill Thomas Arthur Freeman, and related to this case.

FIELD, J. Does it not amount to this that you show she killed Thomas Arthur for the purpose of getting rid of the burden of supporting him?

MR. STEVENS. Not entirely. I do not think it would be admissible simply for that purpose. I do not think it is admissible except on the ground that it relates back to the original motive.

FIELD, J. You say you cannot show that she had at the time of the death of Thomas Arthur any money in her own possession?

MR. STEVENS. Of course, I can only show that she had received two thousand dollars and had disposed of a portion of it. Whether she had the rest of it left, I do not know; I do not know that there is any evidence by which we can absolutely say that she had or had not. It is very doubtful if there was very much of it left afterwards; she used money pretty freely.

FIELD, J. Suppose it to have been anybody else. Suppose you had proved that she said that she wanted this money to take care of her own children, and within two years afterwards her own children died under suspicious circumstances.

MR. STEVENS. That she wanted the two thousand dollars to take care of her own children? Well, I suppose that is a pretty general question, and I could not answer a question put in any such general terms as that without having the particular facts.

FIELD, J. Suppose you prove that she wanted the money for the purposes of the expenses of the family generally, then can the death of any member of her family at any subsequent time be shown in order to relate back and help to prove the original motive?

MR. WATERMAN. If she had somebody else she wanted to spend money on.

MR. STEVENS. Suppose she wanted that money—

FIELD, J. For the support of her own children, can you prove the death of her own child two, three, four or five years subsequently, under suspicious circumstances?

MR. STEVENS. I should say no, on general principles, unless there was some particular circumstance. It seems to me that that differs from this case.

FIELD, J. How does it differ from this case? Suppose money is to be paid to her, assigned to her for the support of her own family, and her children are six or seven in number, and she takes it, takes it in the law, absolutely without any moral obligation to do that, and then

two, three, four or five years afterwards her child dies under suspicious circumstances.

Mr. STEVENS. Suppose she takes the money for the purpose of founding an asylum? I do not mean to put any question to your Honor; I am not expecting the court to answer the question, but I must put a question that will answer your Honor's inquiry.

FIELD, J. We desire to have the fullest discussion.

Mr. STEVENS. Suppose she had said,—suppose Prince Arthur Freeman was wealthy, and she said to him, “I wish to found an orphan asylum; now, you give me fifty thousand dollars in your will, and I will use it for that purpose,” and there had been no provision made as to what it should be used for. If she had received that money and never used a cent of it for the purpose of building an orphan asylum, it would be pretty strong evidence that her purpose in getting this money was not to use it in building an orphan asylum.

FIELD, J. I repeat what I said—we have not excluded any evidence of what she did with the money, so far as you can prove it, if she received it on any promise.

Mr. STEVENS. But would not the mere fact that she did not build an orphan asylum be competent evidence for the purpose of showing that that was not the real purpose for which she had received the money, without requiring the person who was contesting that question to show what she did with the fifty thousand dollars? It might be impossible to do that. It is impossible for us, in the nature of things, to show what she did with this money; we only want to show that she did not use it and did not intend to use it for the purpose for which she said she wanted it, the same as in the case of the orphan asylum. Of course I doubt if any reasonable man is asking himself the question to determine what the honest purpose in a man or woman who asked for fifty thousand dollars to build an orphan asylum was; the mere fact that he did not build it afterwards would be competent evidence for the purpose of showing what his motive was in getting the money, that he did not intend to use it for that purpose. That, it seems to me, is this case. It seems to me it is of the utmost consequence to the government to be able to show what the real motive was, and everything which has a tendency to show that she did not use it for the purpose for which it was asked and assigned to her, has some tendency, I do not know how much,—that is for the jury,—it has some tendency to show what was in her mind at the time when that assignment was made, when she had those children come over and live with her, when she induced the family to come and live with her. Of course, the evidence ought to be of such a character, unless there is some rigid rule which requires the exclusion,—if there is to be a sensible rule of evidence I think that evidence should be

admitted which would have a tendency logically to enable us to satisfy a reasonable mind of certain facts which will enable a reasonable mind to come to a certain conclusion.

FIELD, J. You know the rule of law is, that you shall not submit the evidence of one crime to prove another. The general rule of law is undoubtedly against it. If you are indicted for assaulting A, it is not competent to prove that you have assaulted B, C and D.

Mr. STEVENS. Because ordinarily it has not any natural tendency to satisfy the reasonable mind that the prisoner committed that crime.

FIELD, J. It has some tendency to show that he is a man who is habitually assaulting people.

Mr. STEVENS. I tried to argue, — but I did not argue successfully, — in the former trial, that under certain combinations I thought that was admissible, but the court overruled it, and of course I cannot argue that now.

FIELD, J. Suppose you are indicted for cheating A in a horse trade, the fact that you have cheated twenty-seven other persons within three months, is, independently of legal rules, some evidence to the point that you have cheated the last person ; but yet, it is not admissible if there is no connection between the different acts.

Mr. STEVENS. I don't know about that, but the court says it is not. But if I pass a piece of counterfeit money, and if it is a fact that I had another piece of counterfeit money in my possession, that would be evidence against me. I do not think the rules of law are always consistent.

FIELD, J. That is an exception, and it goes simply to the point of whether you knew it was counterfeit. The ground is that a man may have one counterfeit half-dollar and not know it ; but if he has a good many in his possession and on successive days, it is evidence that he knows that the money is counterfeit.

Mr. STEVENS. Where a distinct crime is committed we do not put it in that position. But does it not have a natural tendency, and is it not connected circumstantially with the principal fact, in so far as it tends to go back and explain the motive ?

FIELD, J. Is it not more reasonable, on general principles, that if there be any evidence that she killed the son, the motive to do that was formed after the death of the father, than that it was formed before, — on general principles ? Is it not merely collateral as connected with the original motive ?

Mr. STEVENS. I do not think it is, if you go along step by step. We go along step by step and we show that she used a portion of the money for another purpose, and that had been admitted. I don't know why with just as much force the court might not ask the question why she might not have formed this conclusion after the death of

Prince Arthur, for the purpose of paying off all these debts. But the court allowed that, and, I think, properly. Prince Arthur died in June; July, August, September, three months afterwards she received the money. Now, there is some evidence she said she was going to have money before he died.

FIELD, J. There is not a particle of evidence yet that she contemplated the death of the son before the death of the father. The evidence is this, that she contemplated receiving the money and she contemplated taking care of the children. There is not a particle of evidence, except mere conjecture, that before the death of the father she contemplated the death of the son.

MR. STEVENS. I think there is evidence, if we are allowed to put it in, that she did not contemplate taking care of the son. When a person takes money for a specific purpose and does not use it for that purpose, I think it goes a good ways to show to a sensible mind that it is not the original intent to use it for that purpose. I may be entirely at fault, but I cannot see how a person can, reasoning upon probabilities, upon the weight of evidence,—I do not see how any one can help coming to the conclusion that that evidence would enable him, if he was trying to arrive at a conclusion, to come at a correct conclusion. We have proceeded with some difficulties in this case, and I am very sorry if I cannot remove them; I believe it may, it is possible it may result in a miscarriage of justice. It is not evidence which should be introduced unless it is admissible. At the same time, I think this is a case in which great responsibility rests upon everybody, and I feel it is a case where the government are bound to use every means in their power to introduce that evidence if it is admissible; and the prosecuting officers have not the slightest doubt upon their part that the evidence is admissible. Of course, if the court come to a different conclusion we must submit to it, whatever the result may be to the administration of justice. If it is as I said day before yesterday, a question in which the court have any serious doubt, although it is a capital case, it is a case, I think, where the government should have the benefit of that doubt. Because if there is any doubt or any reasonable doubt in your Honors' minds about this, I do not know why, in a case like this, the rule should not prevail that prevails in the Superior Criminal Court, where the government desires to have an important question settled, and why it should not be settled. As I said then, no wrong can be done this woman, whatever the original act is. If the court makes a mistake in ruling now in favor of the government that will be corrected hereafter; if the court makes a mistake in ruling against the government, it is a mistake that never can be corrected in this world.

MR. WATERMAN. Is there not some evidence, if the court please, from one of the witnesses, — I have just been looking to find it, and I am almost certain that I am correct about it, — that she said she wanted this assignment made to her, substantially for the purpose of taking care of little Arthur, and if little Arthur didn't get it, or was taken away, then it would all come to her?

KNOWLTON, J. If anything should happen to him?

MR. STEVENS. There was such a piece of evidence, I think.

MR. WATERMAN. Now, it is possible, of course, that when she formed the idea or purpose of obtaining this insurance she could have had an intent at that time of obtaining the money for her use exclusively, and to the exclusion of everybody from the use of it, including little Arthur; and that she intended, it is possible, of course, that she had formed an intention to put Arthur out of the way so that he never should need it, never could have it. If that is so, didn't she do it in this case? And the fact of Arthur's death, in the manner which we will attempt to show, the fact of his being put away, — as we shall show conclusively and satisfactorily to your minds that he died from poison and not a natural death, — is not that competent to relate back to the fact?

FIELD, J. Excuse me a moment. The evidence you refer to is in the testimony of Charles F. Chandler, I think, and I have got it down: "After his death she said the insurance was made over to her to take care of Arthur; and if anything happened to Arthur she was to have it." It was said after Mr. Freeman's death, as I have got it down. Judge Knowlton says it related to what the arrangement was. I suppose the reporter has it in full, but my memorandum is as I have read it.

MR. WATERMAN. [Reading from the record.]

Q. Did she tell you about what was to be done with the insurance if anything happened to Arthur at any time? Did she make any statement to you at any time as to what would become of the insurance if anything happened to Arthur? A. At the time she told me it was made over?

Q. At any time? A. Yes, sir.

Q. What did she tell you? A. She told me it was made over to her to take care of Arthur, and if anything happened to Arthur she was to have it.

FIELD, J. That is the reference.

MR. STEVENS. I have another piece of evidence here which I did not put in because I thought perhaps it would be objected to. It was from Mrs. Melvin:

That was after little Arthur died. I asked her Friday afternoon if Dr. Nichols was Arthur's guardian. She said, "What do you mean?" I said,

"You told me some doctor in Cambridge was his guardian." She denied it and she said, "The policy was made out to me (her); Arthur had nothing to do with it, the money was mine." And she said, "I have paid Prince's bills with it, and after his bills were paid there was not very much left." And she said, "The money any way would be hers because she had adopted Arthur." And I said, "I don't see how you can have adopted him without mother and I knowing it." And she said, "It was not necessary for it was advertised."

FIELD, J. You did not put that last in?

Mr. STEVENS. No, sir.

FIELD, J. That occurred after Mr. Freeman's death?

Mr. STEVENS. But she is relating in that the way in which she received the money. It relates back to the purpose for which she received it. It was to be her money.

Mr. WATERMAN. If the court pleases, if she did have the intent to get the money and keep it, and if necessary kill Arthur, if she entertained that mind and intent at the time, is it not competent to introduce evidence to prove his death?

FIELD, J. You propose to prove the death of Arthur without first establishing the intent?

Mr. WATERMAN. Not exactly. That is not necessarily so. Suppose she entertained the intent, suppose she actually entertained it when she got the money or thought she would try to get the money and get the assignment, that when she got that money she would have it, and that Arthur should not have it, and that she would kill him to keep him from having it, now is it not competent to prove his death to show that intent? That is the naked proposition. I put it just as strong for the Commonwealth as it can be, that she did actually have that intent. It seems to me that is just completing the evidence.

FIELD, J. We desire to hear both sides before we consider the question, if you desire to be heard.

Mr. GOODRICH. I will state briefly my objections, and in this way: I think it is for the court to say, before the admission of this proposed evidence, that there is some reasonable and natural, and not fanciful and conjectural connection between the death of the two in question. As I understand it, the evidence cannot be competent unless upon the ground that when the prisoner meditated the death of Prince Arthur Freeman, she also at that time had the intent to murder or dispose of, by poison or otherwise, the child. We remember that at that time there were two children, which just doubles the improbability and the unnaturalness of the thing. Another child subsequently died. Is this natural to suppose, —

that she, charged, as I said, with a trust in behalf of the two children, the death of the father being the only thing that stood between her and the two thousand dollars? It is not reasonable that the mind of the prisoner in the way of motive should go beyond anything that stood in the way. The obstacles must be removed, and there the motive of the prisoner ought to be presumed to end. It is not claimed that there was any legal obligation, as I understand it, upon the part of the prisoner. There is nothing which would support, it seems to me, in law, any such proposition. Nothing more is stated by any witness than that she said she was to take care of the children. You will remember the testimony of the doctor who says that he was specially requested at the time that Freeman was in his last extremity, almost, by Mrs. Robinson to ascertain from him his wishes in regard to the child. Now that construes and throws light upon what she said afterwards in regard to her duty of taking care of the child, because it seems that at that time it had not been provided for; the custody of the child was in question when he was dying, and we find that it was made a subject of provision by Freeman on his death-bed. That explains any testimony which may be offered as construing the language used by Mrs. Robinson. Now, if your Honors please, the only testimony is of language used by the prisoner, which was general in its terms. It is admitted that there was no contract in writing, there was no trust created by any instrument, but she simply acknowledged that she had the care and the charge of the child and was to take care of the child, and she recognized the expense of it. She suggested that if the expense should be in anywise removed that she herself would have the benefit of the money, not by force of the agreement or of the arrangement, but as a necessary consequence and result, natural enough. Now I am not aware of any evidence which has been introduced here, or which has been proposed by the prosecution, which tends to even a probability, a remote probability that she meditated the death of Thomas Arthur Freeman before the death of Prince Arthur Freeman, or that at the time she meditated the death of Prince Arthur Freeman that she then and there had formed in her mind, as part of the plan or purpose, the intention to bring about the death of the boy. It seems to me the government ought to be quite content to rest it upon that. A very strong appeal, an unusual one, and rather a painful one in a case like this, to come from the prosecution, is made that it is possible that there might be a miscarriage of justice if a doubtful rule of law was not declared in favor of the government. There had better be a miscarriage of justice, it seems to me, than a fracture in the law or a straining of the law, if the law can be determined to the satisfaction of your Honors. I say that your Honors ought to be inclined to consider somewhat the

vehemence of the prosecuting officers in the pressing of this prosecution and its possible results, and that those suggestions are not of a judicial character but are rather professional in their nature and have hardly a place in this court. I might, I think, reply in kind, and I think in a capital case with much greater urgency and force. It might have been pardoned in me, the making of a suggestion of that character to the court, but I think the prosecution can hardly with propriety do it. The court will not strain the rules and the law. If the court sees in any evidence that has been introduced or that is proposed that it is reasonable to suppose that it was a necessary or a probable part of the plan of the prisoner to murder the son at the time when she formed the purpose of murdering the father, and that it was a double purpose made into a single purpose and a single plan, why, then the evidence should be competent; otherwise, admissions of evidence of the death of the son thirteen months after the death of the father would come within the plain established rule of law recognized, and whether or not so, declared by this court to be *res adjudicata*, and then it would be clearly and wholly inadmissible. And I appeal to your Honors to give the prisoner your judgment upon the question whether a reasonable connection has been established or is proposed to be established by any proposed evidence, between the death of the two persons now in question, in the matter of a common, single purpose, plan and motive, entertained before the death of Prince Arthur Freeman.

Mr. STEVENS. Here is a piece of evidence. I do not know that it is of any great importance, but I want to have the court have the benefit of everything I find. It is a piece of evidence that was not put in because we had some hesitation about putting it in. It was after the little boy died. It was a conversation between Mrs. Robinson and one of the witnesses who sat at his head looking over him. This man asked her, "Sarah, how is it they all look alike, have the same symptoms, take the same medicine with different diseases?" And he says, "She put the cloth on his face and walked away."

Mr. WATERMAN. As to the admission of evidence of the occurrence of facts which happened at a longer or shorter time, I take it there is only one rule. It depends upon the circumstances. Sometimes, in some cases, three days is a long time, too long a time; sometimes thirty days is not too long a time, sometimes a few hours would be too long a time for the issue under consideration; sometimes a year is not too long a time, or a year and a half, or two years, or any time, I may say, if the circumstances are of such a nature that they may be plainly understood so that there shall be no great fear of wrong by mistakes occurring from the lapse of time. Time, when you mention a specific time, does not have any force

upon the question of the admissibility of the fact which occurred at the time ; it depends upon the circumstances which have occurred between the beginning of the transaction and the end of it. For instance, suppose she intended at the time she got this money to kill this boy, and suppose that the circumstances were such between the time she got the money and the time the boy died that she did not have any opportunity to kill him, that she killed him the first opportunity she had, then, of course, time is obliterated and it becomes an immaterial question so far as the rest of it is concerned. Now, suppose she conceived the idea, and I must say I am more than half inclined to believe that this woman was in such a state of mind when she conceived the idea of putting all these persons out of the way, that she was not in a sound, thoroughly sound state of mind. But that question has not been raised here ; it is not thought proper to have it raised here, and she is as much opposed to it, I suppose, as anybody, and perhaps more ; but that does not affect our impression of the circumstances. Suppose she had that intention, she conceived the idea and deliberately planned a purpose to carry out her intention to get this insurance, first, to get one after another insured, then to put them all out of the way so that she would get the benefit of the insurance for some purpose that was really going to benefit her or that was of no benefit to her. She *could* have formed such an intent and such a purpose. If she did, and if it took years to carry it out, the killing of the last one was a part of the intent, and it seems that the court ought to consider the whole subject and that the whole of the intent can be put into the case. Now, in this matter, just as I have mentioned before, it seems to me that if she did have that intent to put this boy out of the way for the purpose of relieving herself of any obligation, equitable or legal, to pay the money to him or for his use, and if she afterwards killed him, it was a carrying out of a part of the same plan ; no matter whether it took place a year, fifteen months or thirteen months after, or any time, if it was carried out. Of course, if the evidence is such that it is so blind that it cannot be seen what it is, it all falls, but it does not affect the competency of it. That is the claim on the part of the Commonwealth. It is not for the purpose of getting a verdict, drawing a verdict in this case, not at all ; but it is the duty on the part of the prosecution to present this case to the court ; and it is not merely a professional presentation of the case to the court, but it is the duty of the government to have this presented to the court, and there is no other way to get the law settled. And all we ask is this : If the court is of the opinion without a doubt, not a possible doubt, that this evidence ought not to be admitted, then it ought not to come

into this trial. If there is a reasonable legal doubt in regard to it we claim under the circumstances, in the practice of our law, that the evidence should be admitted, — if there is a reasonable doubt about it. There is no other way to get it settled. That is all we ask, and we do not want to be misunderstood. Our motive is not, of course, to press it and get it in here and convict this woman, right or wrong ; there is no satisfaction in that. It would not be satisfactory to me if I could get evidence in here that I thought was incompetent ; it would be no satisfaction to me to have it admitted, if by reason of that I could get a verdict. Of course, we have some zeal and some considerable interest and feeling in the matter of the trial of this woman. We believe that we are right about it, and we want every legal right and privilege that the law will give us, because it may make a very great difference ; if we are deprived of one single privilege that belongs to us in this case it may make a difference with this verdict.

Mr. GOODRICH. I beg your Honors will indulge me for one single point which I before failed to refer to, and that is this : That if evidence of the death of Thomas Arthur Freeman is competent in this case, it is because that death was a part of the original scheme. Now, if the original scheme was to get possession of the money, then to make this evidence competent it must appear that it would serve that end, — the scheme of getting the money. Therefore it would be material whether or not the money had been got and spent ; because if the prisoner had obtained the money at the time of Thomas Arthur Freeman's death, and had spent it and it was gone, then some other motive except the obtaining of the money must have been the motive for Thomas Arthur's death. Now, in point of fact, it is proper for me to say that the money had been spent and was gone ; and, therefore, her only object and motive in committing the murder of Thomas Arthur Freeman must have been to get rid of her responsibility of taking care of him. It certainly could not have been connected with the obtaining of this insurance money, because the insurance money had been obtained and had been dissipated ; it had gone. Now it is said that it does not appear that it may be said that it has gone ; but the government ought to show that a substantial part still remains with her. Upon that point we will assist the government in showing that she has expended the money wholly instead of partly, as the government have already shown. The government have introduced evidence for the purpose of showing that she did apply the money to other purposes than those for which she received it. They have done so in part ; they have accounted for the disappearance of the money in part ; the defence will assist them in accounting for the disappearance of the whole of it. And that certainly leaves the motive for

the death of Thomas Arthur Freeman entirely disconnected with the motive of the performing of the original scheme, the proof of which is the only basis upon which this evidence can be admitted.

The justices went out for consultation.

At 11.45 the court returned and said:

By FIELD, J. The justices have considered the question submitted to them and are divided in opinion. The result is that in a capital case, where the point does not concern the general administration of justice, but is dependent upon the particular facts of a particular case, *in favorem vitæ*, the evidence must be excluded.

Mr. STEVENS. I will ask the court if I may be allowed to introduce the last piece of testimony that I read. It was the conversation that took place over the dead body of Arthur, in reference to all who had died, including Prince Arthur. I will read it again, if your Honor desires it. After Arthur died this witness, standing over the body of Arthur, said to her, "How is it? They all look alike, have the same symptoms, take the same medicine with different diseases." She had been talking with the witness about the cause of death. Is that evidence admitted or excluded?

FIELD, J. What is the reply of Mrs. Robinson?

Mr. STEVENS. She put the cloth on his face, walked away. She said she had "dreamed that Arthur was to be taken away, her mother had come for him." I do not know that that followed immediately after.

FIELD, J. Did she say anything?

Mr. STEVENS. I do not know that she made any reply to that, except that she put a cloth over his face and turned away.

FIELD, J. This was about thirteen months — was any direct allusion made to Prince Arthur or Anna Freeman?

Mr. STEVENS. Mr. Chandler, will you step forward a moment?

CHARLES F. CHANDLER — *recalled*.

Q. (By Mr. STEVENS.) You had a conversation with Mrs. Robinson after Arthur died. Will you state what that conversation was to the court? A. The day that he died I called up there to see the body. I went in, had a little conversation with her, I forget just what it was now, and she asked me if I wanted to see Arthur. I said I did. She took me in the room where the body lie in an ice box, and removed the cloth that was over the glass and I looked at him. Says I, "How is this;" says I, "they all look alike," says I, "and they all have about the same medicine;" says I, "what is the matter with them all?" She looked at me, and then looked down at him, put the cloth over the glass, and turned on her heel, and says she, "I don't know," and walked out of the room, and I followed her.

Q. Was anything said in that conversation in terms about Prince Arthur's death? A. Only that I remarked that they all looked alike. I had seen several in the family.

Q. Did you speak of Prince Arthur by name? A. I am not positive whether I did or not.

Q. You had been speaking of them all? A. Yes, sir. There was a couple of her children and a little baby of Mr. Freeman.

Q. What did she tell you Arthur died from? A. "Didn't know; doctors didn't know."

Q. (By FIELD, J.) I understand you to say you said "all," but you made in terms no express allusion to either? A. No allusion to either.

Q. (By Mr. WATERMAN.) Did she know at that time you had seen the other members of the family? A. Yes, sir.

Q. Do you know she knew that you alluded to the other members of the family when you spoke of them all that day? A. Who else could I have referred to?

Q. I mean, whether you knew she knew? A. She must have.

FIELD, J. We think, on the whole, it is not of sufficient significance to admit it.

Mr. STEVENS. I do not know of any evidence that I have left out except the evidence of Catharine Melvin in reference to insurance.

CATHARINE MELVIN — *recalled*.

Q. (By Mr. STEVENS.) Mrs. Melvin, when did Thomas Arthur die? A. He died in July, 1885.

Q. 1885 or 1886? A. 1886.

Q. Were you there when he died? A. I was.

Q. Did you have a conversation with Mrs. Robinson about the insurance that afternoon? A. I did.

Q. What was it? A. I think it was after the doctor had been there and said it was his opinion that he wouldn't live twelve hours longer, though he might possibly live; and I think it was about at that time that I said to her, "Mrs. Robinson, is Dr. Nichols Arthur's guardian?" And she says, "What do you mean?" And I said, "Why, you told my mother that some doctor was Arthur's guardian." And she says, "No one is Arthur's guardian but me." She said that she had adopted him, and it wasn't necessary to have any other guardian, and that the money was made over to her, and Arthur had nothing at all to do with it, it was hers; and I said to her, "I don't see how you could adopt him unless I knew something about it. It seems to me that I ought to have been consulted in some way, though I shouldn't have objected," because I felt that she was a good person to take care of him. I knew nothing to the contrary. Well, she

said that it had been advertised in the papers, and it was not necessary for me to be consulted any more than that, and then she says, "The money—the most of it—I have spent in paying Prince's debts. There was very little of it left after I paid his debts," and I said, "Well, it seems to me that a person in his circumstances would not have been allowed to accumulate debts to such a large amount; but that is all, that settles it." If the money was paid to her, that was all I wanted to know about it; it didn't matter any more. That was all that was said about the insurance.

Mr. STEVENS. I believe, your Honors, that closes the government's case.

Recess until 1.30 P.M.

AFTERNOON SESSION.

The trial was resumed at 1.30 P.M.

OPENING ARGUMENT FOR THE DEFENDANT.

BY D. F. CRANE, ESQ.

May it please your Honors, and Mr. Foreman and gentlemen,—The charge against the prisoner at the bar is the charge of murder, and the punishment for murder is death. That fact alone will suggest to you the terrible responsibility resting upon you and upon me, and the awful solemnity of the occasion which has brought us all together. I feel as though I needed the Divine more than human aid, and it was fitting on this occasion before you took your seat upon the panel that divine aid should be invoked, and that He in whose hands are the issues of life should be invoked for wisdom as you hold suspended in a balance the issues of life and death for that woman. The air for the last fifteen months has been filled with rumors respecting this case and the history of this woman, and it would be strange if those rumors had not come to your ears; and with what care and caution have we labored to select jurors whose minds should be free from prejudice, unbiassed, who should have clear heads and honest hearts in this matter. The verdict of a jury cannot be recalled or revoked, however much you might desire it in subsequent years. The doors of the cells in yonder jail may open and let the inmates out at the bidding of one man, but the doors of the grave never open to let the innocent pass out.

The law, gentlemen, in its humanity makes a distinction between civil and criminal causes. In civil cases the preponderance of the evidence turns the scale, the weight of evidence turns the scale; if

the evidence is more in favor of one side than the other, that turns the scale, but in criminal cases jurors are to be satisfied beyond a reasonable doubt that the accused is guilty. Now, gentlemen, we start with this presumption. The law presumes every person innocent of a crime. All the presumptions of law are in favor of a party, none can be taken against him. It makes no difference whether the party is in a dock or in the court room, or where, every presumption of law is in favor of the innocence of that party, and the burden of proof is upon the government. The government make the allegation and they must prove it, and the defendant, the prisoner at the bar, has nothing to say. The government make the allegation and they must prove it, and they must prove it to your satisfaction.

Now, gentlemen, the government say that they have no direct evidence in this case; it is wholly circumstantial. Well, where the evidence is circumstantial, as it is in this case, the jurors have a right to have such a connection of circumstances as shall lead your minds to a satisfactory conclusion. They are to prove beyond a reasonable doubt,—and the court will tell you about reasonable doubt, but I understand it to be this, that where the evidence is circumstantial the law provides and the jury require that, the evidence offered by the government shall be full proof, proof beyond a reasonable doubt; and such proof, gentlemen, as shall be equivalent to positive and absolute certainty, not positive and absolute certainty, but full proof equivalent to positive and absolute certainty. And why should it not be? A human life hangs in the balance, and no earthly tribunal would dare to take that life unless they have proof almost beyond a doubt, full proof, and such full proof that you can say it is equivalent to absolute certainty.

The prisoner at the bar is charged with the murder of Prince Arthur Freeman, her brother-in-law. She was born in the northern part of Ireland, forty-nine years ago last May; she was of Scotch descent. Her parents were thrifty, industrious people; they died when she was quite young. She had a sister Annie, had one brother; that brother came to America. On the decease of the parents Mrs. Robinson, the defendant, and her little sister Annie—Mrs. Robinson then being fourteen or fifteen years old, the little sister nine—came to this country, came alone, came in company with the captain, I think, of the steamer. They bade farewell to their old country and came here to make this their home. They immediately went to their brother in Cambridge to live; lived with him for several years, making their home there, she having learned the trade of dress-making in Ireland and worked at that after she came here. Subsequently she married Moses Robinson after some years of acquaintance. He was

a man of excellent character, in humble circumstances, and they lived in humble circumstances. The little sister lived with them after they were married until she was married. She married a man, I think, by the name of McCormick and afterwards she kept house. Mrs. Robinson and her husband kept house. Subsequently her sister's husband died, leaving her a widow. She then came to live with her sister, Mrs. Robinson, in Cambridge; made it her home there, worked where she could. Subsequently she married Mr. Freeman. They were persons of humble circumstances, honest, industrious people, lived in a humble way; he was a carpenter, I think. Mr. Robinson was a carpenter. They had born unto them eight children; I think Mrs. Robinson had two children die in infancy; one died subsequent to that. Mrs. Freeman living with her husband had two children born to them. Mr. Robinson died in 1881, leaving the care of the family upon Mrs. Robinson to a large extent. She had then five children, Willie, Lizzie, Charley and two others. The support of the family to a great extent devolved upon her, but the boys growing older each year soon became of some assistance to her. She worked at her trade, I think, in the city. Mrs. Robinson supported the family with the assistance of the boys and Lizzie. Mrs. Freeman lived in South Boston at that time. Mrs. Freeman became sick; they all said it was pneumonia. There is no doubt that it was pneumonia. There is no doubt that she was very sick in South Boston. Mr. Freeman knowing that the two sisters were united by the closest tie, the greatest friendship having existed between them, — Mr. Freeman, when he found his wife was sick and nigh unto death, sent for Mrs. Robinson to leave her place at Mr. White's and come and take care of her. She did come to see her at South Boston, was there during her sickness, and tenderly took care of her during her sickness until she died. After her death Mr. Freeman had no home for his little children, a little infant and a boy six or seven years old. The matter was all talked over there by the advice of friends. Mrs. Robinson said, "I can't consent to see these little children turned into the world, my sister's children. Come to my house." And they did go there and Mr. Freeman went there. Subsequently the little baby died, I think died in April, sick but a short time, always feeble; and subsequently Mr. Freeman was taken sick and he died and was buried.

Now she is charged with the murder of Mr. Prince Arthur Freeman; murder, and the government say this, that she did it because she was a wicked woman — she was a Lucretia Borgia, she was a Catharine de Medici. Wicked! Well, now, just look at it and see what the government have already presented. Where is the similarity between Mrs. Sarah J. Robinson and Lucretia Borgia?

Lucretia Borgia was an Italian woman, renowned for her talent and her vices, guilty of incest, notorious all over Italy. Where is the similarity between Mrs. Sarah J. Robinson, watching over the dying sister Mrs. Freeman, tenderly caring for her, as they all say, and that incestuous woman? Where is the similarity between Mrs. Robinson and her? They say she is wicked, did it because she is wicked, from the wickedness of her heart. She was a second Catharine! Well, Catharine was a wicked woman. She was the instigator of the massacre of St. Bartholomew, notoriously wicked; everybody knew that she was wicked, and she boasted of it. Where is the similarity between Mrs. Robinson, tenderly taking care of her orphan children after her husband died, seeing that they were brought up, had a good home, became honorable men and women in society, — where is the similarity between Mrs. Robinson and Catharine de Medici?

But the government go further and say, “Why, this woman had a motive to put Prince Arthur Freeman out of the way; she conceived the plot of destroying the life of her only sister and then destroying the life of Prince Arthur Freeman for the sake of two thousand dollars.” Here on one side, the government say, are two thousand dollars in anticipation, that she might get, perhaps, and on the other side doing that horrible thing which would send her down to the grave a murderess. Motive! Not two thousand dollars where a person could take it under the excitement of the occasion, under great temptation to take two thousand dollars and do a very wicked thing, but two thousand dollars in anticipation; after she had taken the life of that little girl who crossed the ocean with her and had been a companion with her all through those years, in infancy, in childhood, in womanhood — took the life of that woman in anticipation at some future time that she would take the life of Mr. Prince Arthur Freeman and get the policy of insurance. Now, gentlemen, we ask you this: Was the motive to take the life and do that horrible thing sufficient? Well, there are certain things that the law requires a person to explain. If stolen goods are found in the possession of a person, that person must explain how he came by them. If the instrument by which a murder was committed is found in the possession of a party, that party must explain that. Pray tell me what Mrs. Robinson has got to explain. Did they find the means of death upon her? Did they find arsenic in her possession? Did they find that she talked about it, or knew anything about it; ever dealt in it, ever purchased it, had any books treating upon that? Did they find any vials in the house, anything of the kind? She has got nothing to explain. There is nothing she can explain.

Now, gentlemen, the court have allowed them to put in certain evidence under certain circumstances with reference to the death of

Mrs. Freeman. Mrs. Freeman was taken sick, and have you a doubt in your mind that Mrs. Freeman died of pneumonia? Dr. Davison said so. Is there any doubt that she was sick with pneumonia, and dangerously sick? But they say, "Why, we found arsenic in her two years after she was buried." The district-attorney in opening his case said that he should not rely much upon the fact that they found arsenic in the body of Mrs. Freeman, because the very man who embalmed Mrs. Freeman used arsenic. Is there any doubt about it? Take that undertaker upon the stand, Mr. Willard, and what does he say? He said, "I did use arsenic. I did introduce into that woman's system embalming fluid. I don't know whether it contained arsenic or not; that which I generally buy, does. I have seen it in fluid which I have used, and I have held it up and have seen the crystals fall from it. I did intend to use arsenic. I did use it for purposes of embalming." And Professor Hills comes on the stand. He says it is almost invariably found in this fluid which is used for embalming purposes; and after they dug up the remains of Mrs. Freeman and submitted them to Professor Hills, what does he say? Professor Hills says, "I commenced the examination, and just the moment I found there was arsenic and mercury, and found that substances had been injected into that woman's system for the purpose of embalming it, I ceased my examination. I made no further examination because it was useless." On the evidence as it stands to-day is there a shadow of doubt that Mrs. Freeman died of pneumonia, precisely as Dr. Davison has stated?

There is another piece of testimony in here, and you will give a great deal of credence to it. Mrs. Barker, the elderly lady on the stand, who took care of Mrs. Freeman, said that Mrs. Freeman exhibited four or five days before she died the same symptoms that she did after Mrs. Robinson went there, precisely the same symptoms after Mrs. Robinson went there; before that she exhibited the same symptoms of vomiting, diarrhoea, headache, no new symptoms. Is there the slightest doubt in the world that Mrs. Freeman died of pneumonia, precisely as all the parties stated and precisely as they have believed? And is there a shadow of a doubt on the evidence that Mr. Willard used upon that body and in that body a substance which contained arsenic, and that was the reason they found it in her system?

Now, gentlemen, we come to Prince Arthur Freeman. He died on the 27th or 28th of June. I do not know whether he died of arsenical poisoning or not. Mrs. Robinson does not know whether he died of poisoning or not. We have no means of telling about that, but I do call your attention to this fact, that after Mrs. Robinson found that Mr. Freeman was sick, what did she do? She called the

physician, and when the physician after an examination said, "I don't know what ails him. I can't tell," what did she do? Did she try to keep it still and let the poor man die? No, immediately she said, "If you don't understand his case, bring in another physician; call any man you see fit, call any physician, and let them make the examination;" and after Dr. Driver was called in, then those two physicians, eminent as they were, could not tell what the disease was, and they called in a third. When Mrs. Stanwood went there to see Mr. Freeman, what did Mrs. Robinson say to her then? Did she try to cover up, and with one hand deal out deadly poison to this poor man and with the other attempt to cover up? What did she do? She said, "This man is a very sick man, and won't the physician of the Colony call and see him?" Asked to have Dr. Cutler come and see this man, and see what was the matter with him. Was there any covering up, — any attempt to deal out poison, and at the same time cover the matter up so that a party could not ascertain the fact?

Well, gentlemen, Mr. Freeman died. There was a policy for insurance on his life that subsequently was made payable to Mrs. Robinson. It was made payable to her at Mr. Freeman's request. He wanted it payable to her; but you will bear in mind one thing, gentlemen, that on the very day that they say Mrs. Robinson commenced to deal out poison to this poor man, there was no policy in existence on which Mrs. Robinson could get a dollar. It had been transferred in May, but it had never been entered upon the books, and the Colony were under no obligation whatever on the twenty-second day of June to pay that to anybody, because nobody had any policy. Now, while you were not allowed, gentlemen, to weigh probabilities and determine by probabilities whether it is more probable that this woman did this thing than anybody else, at the same time you have a right to examine any theories which the defence may advance for the purpose of strengthening the argument that this woman is innocent, and that is all we can do.

Now, I say, this, gentlemen, that there are certain theories about this case which are more consistent, more reasonable, vastly more reasonable, than that this woman took the life of this party. And by the way, I will state right here that there was a character who appeared and has appeared in this case quite prominently by the name of Beers, Dr. Beers. Mrs. Robinson knew him years ago before she married. After she married her husband Moses, she lost sight of him, but the acquaintance was renewed in 1884. Dr. Beers visited her frequently. He solicited her hand in marriage. He was infatuated with her. He was there morning and night, visiting her Sundays, visiting her in the city, everywhere, for days and weeks and

months. Wherever she went this Dr. Beers appeared. He was at the funeral, at the bedside of Mrs. Freeman when she was sick. He came to see Mrs. Robinson. As it appears in the evidence he carried medicine there, or he carried something there in a bottle which he gave the parties. He was there at the house during the sickness of Mr. Freeman. He was there constantly during the time Mr. Freeman was there. He carried medicine there. He was importuning Mrs. Robinson time and time again not only for her hand but her heart, but she refused him. She said, "If I marry anybody I will marry you." He was persistent—persistent, as he claimed, in her welfare, seeking mainly for her hand and her heart. That continued for a year and a half or two years after, certainly a year after Mr. Freeman died, when it turned out, much to her surprise and chagrin and mortification, that Beers was there merely for the loaves and fishes, that he had left a devoted wife and was seeking the hand of another.

Now, gentlemen, we do not say that Dr. Beers did this intentionally, but when we come to a motive we say that Dr. Beers had ten times the motive that Mrs. Robinson had. He had no affection for Mr. Freeman, no affection for Mrs. Freeman, no love for the children, but he did for the woman, Mrs. Robinson; and we say when we come to a motive, if a person could take the life of another one for two thousand dollars, and that be the motive, that Dr. Beers had it stronger, vastly superior to Mrs. Robinson. Again, we say, gentlemen, that it is possible, and it is as probable as any theory, that Dr. Beers might have given this by mistake; that Dr. Nichols might have given this by mistake. And here is a very significant fact, gentlemen. Dr. Nichols, perfectly honest, perfectly truthful, says he attended this man, that he prescribed for him, but he could not tell what he gave him during the whole week; he thinks he gave him bismuth at one time, and that, he said, contained arsenic. He said that he had administered arsenic as a medicine, and it was used as a medicine, but he had not the prescription; he can give us no record of where those prescriptions were filled; he does not know what he gave this man. When a person stands right on the borders of a grave, is it not quite as reasonable a hypothesis to suppose that some person honestly dealt medicine to this man, and if he died of arsenical poison that poison might have been found in some of those prescriptions? No physician is beyond mistake. If we had those prescriptions here we could tell whether they contained pure or impure bismuth. We could tell, perhaps, whether those prescriptions contained arsenic. We could tell whether this Dr. Nichols, perfectly honest as I said he was, might not have said, "I think a prescription containing arsenic is just the thing this man needs," and had it

perfectly honest in his prescription. I would not say a word against Dr. Nichols, because I know he is an honorable man; but when we do not have any data from which we can gather the facts, and when he says, "I don't know what I did give that man," and when he says when he died, "I think that man died of disease of the stomach," and so returned to the City Hall, have we not a right to say that this man, not knowing what he did, not knowing what was exactly the matter with his patient, might have resorted to an extreme remedy, and that which is quite common with physicians?

Again, gentlemen, can you say when a human being is suspended, almost in the scales, where the issues of life and death are at stake, — can you say honestly and fairly that the hypothesis of suicide is not just as reasonable? Why, gentlemen, strike out to-day the question of the two thousand dollar insurance, and the probabilities are ten to one that this man committed suicide, ten to one. On the Sunday before he was taken sick he went over to the Common, attended meeting there, heard the Rev. Dr. Bates preach. He sat there on the platform. Dr. Bates, after the services were over, spoke to him, asked him, "What is the matter?" He said he was sick, had been sick ever since his wife died, and disheartened. Going home that night with Charlie, crossing the bridge that evening he told Charlie, "I have a great mind to jump overboard, I have nothing to live for. My wife and child are both dead, there is nothing for me in life." Now, gentlemen, I ask you whether or not that hypothesis is not just as reasonable, if it were not for the fact of the insurance, as any hypothesis? I do not know why men commit suicide. I do not know whether it is because they think they are brave or because they are not brave. I cannot tell. But I know that it is done. Again, gentlemen, this man Freeman worked over in South Boston. He was working with a poison more deadly than arsenic, sulphuric acid. He was using it. Johnson, who worked with him, on the stand said that he was complaining of being sick four or five days before he closed his work, — complained of being sick. Now I ask you, when it is shown beyond a shadow of doubt that vapors of sulphuric acid were put into this tank for the purpose of eating off the scales of iron, whether you could say that it is an impossibility that that man should have received into his system arsenic enough to destroy life? I simply suggest that as a theory when we have the fact that the man was complaining for three or four days that he was sick, and the fact that he said life was a burden to him.

Now, gentlemen, in addition to the testimony already put in, in reference to the circumstances connected with that case, we shall introduce the testimony of some of the best men and women who have known Mrs. Robinson for years: who knew her not only as a

kind mother, but one always generous, always watchful and careful of the sick, gentle, kind all through life ; not only a mother who took care of her children day and night when the father had been laid away in his grave, but a mother who daily for years gathered her little family around her, and invoked God's blessing upon them when they retired to sleep. We say in view of that that it is impossible that this woman should do this awful deed for money. Men do not become saints in their sleep. Character is not formed in a day. It is made up by all those little things of life which we so much admire. Women do not become fiends in a day, and with the character that this woman has sustained all through these years, a woman of the finest instincts, the finest feelings for her children, for her neighbors, always generous, we say that it is impossible that this woman in a moment, in a moment, should take the life of that sister who was a companion with her all those years, who visited her every Sunday, who walked with her all through life thus far, — she should take her life, take the life of her brother-in-law, simply for a few paltry dollars. I believe, gentlemen, that human nature is bad enough anyhow in its best estate, but I tell you, gentlemen, that human nature at its best or its worst cannot counterfeit kindness, gentleness, motherly instinct, sisterly affection, for ten and fifteen and twenty years without detection, and no stain against this woman's character, no stain against her love for children or have nothing said against her as a Christian woman.

We ask you to carefully consider the evidence in this case and deal with this woman tenderly, as we believe you will.

REV. LEWIS B. BATES — *sworn*.

Q. (By Mr. CRANE.) Your christian name is what? A. Lewis B. Bates.

Q. And your profession? A. Clergyman.

Q. How long? A. Thirty-eight years.

Q. Where are you located now? A. East Boston.

Q. What church? A. Pastor of the First Methodist Episcopal Church.

Q. Do you know Mrs. Robinson? A. Yes, sir.

Q. When did you become acquainted with her? A. In June, 1873.

Q. Did you know Mrs. Freeman? A. Yes, sir.

Q. When did you become acquainted with her? A. The same summer; I think it was in July, 1873.

Q. Whether or not Mrs. Freeman was ever a domestic in your family? A. She was, for nearly three years. Her name then was McCormick.

Q. She was a widow, I believe, then? A. Yes, sir.

Q. From what time to what time? A. She was in our family from the fall of 1872 to her marriage in June, 1875.

Q. Where was she married? A. Married at the parsonage at South Boston.

Q. By whom? A. Myself.

Q. I mean the last marriage, to Mr. Freeman? A. Yes, sir.

Q. Did you know where she was subsequently to that? Did you follow her? A. Since her marriage?

Q. Yes, sir. A. On a number of occasions she has called at the house, and in sickness, in trouble in the family, I have been called to her house.

Q. Now, how frequently did you see Mrs. Robinson? A. The last four or five years very seldom.

Q. Prior to that time? A. Frequently.

Q. Did you visit the family frequently? A. When they were in trouble, sickness and death, I was called upon to attend the funerals, visit the sick and the dying, and watching somewhat over the children. After the father's death the mother consulted me frequently for my advice and counsel, specially in relation to Willie.

Q. Will you state what her relation was to her brother, towards her family during the time of your acquaintance with them? A. I have never witnessed any family that appeared more affectionate; the mother with the children and the children with the mother, constantly laboring each for the other's welfare, so far as I could see.

Q. What were her relations with her sister Ann? A. Equally affectionate. Twin sisters could not have been more so, so far as I could see.

Q. Either of them attend your church? A. Both of them when I was pastor of the church in Chelsea. When I was pastor of the church at South Boston, Mrs. Freeman attended part of the time.

Q. Was Mrs. Freeman a member of your church? A. She was a member of the church at Chelsea and also at South Boston.

MR. WATERMAN. If the court please, if the defence put in evidence of those who are not immediately connected with this trial, we ought to have a right, and shall claim the right to put in evidence in reply.

FIELD, J. If you think the defence is offering incompetent testimony, you can object to it, if you wish. If they should offer incompetent evidence it would not entitle you to put in incompetent testimony relating to the same subject.

MR. WATERMAN. I think we ought to object, or have the defence limit the evidence to the relations between those who were connected with this case.

FIELD, J. If you make the objection, I think they should confine it to her general character, if they choose to put that in, her reputation for general humanity and her relations to people immediately involved in this trial.

Q. (By Mr. CRANE.) You say her relation — will you state again what her relation was to Mrs. Freeman? A. I never knew two twin sisters more affectionate than they appeared to be.

Q. And also in respect to Mr. Freeman? A. I didn't see so much of their relations with Mr. Freeman, but I never saw anything that was unpleasant.

Q. Did you see Mr. Freeman on the Common just before he was taken sick? A. The Sabbath before he died I saw him.

Q. Where? A. I was preaching on the Common under the auspices of the Young Men's Christian Association. The crowd was estimated anywhere from five to ten thousand. They crowded up around the platform and took seats, and I looked at my feet and saw Mr. Freeman with his face in his hands. I noticed him two or three times. When I had finished I said to him, "What is the matter?"

Mr. WATERMAN. I object to what he said to him.

FIELD, J. How is it competent what he said to him?

Mr. CRANE. I want to show the declarations of Mr. Freeman at this time in reference to his condition.

FIELD, J. To his health?

Mr. CRANE. To his health.

FIELD, J. Do you propose to put in anything more than expressions of pain or expressions indicating present condition of health, or do you propose to put in declarations about the state of his health, to be distinguished from expressions of pain and ill health at the time?

Mr. CRANE. Well, I suppose it will turn out that they were expressions relating to his health, not expressions of pain.

FIELD, J. His declarations about the state of his health, but not expressions of present pain?

Mr. CRANE. That is my impression now, that that is as far as we shall go.

Mr. GOODRICH. I wish to call the attention of the court to the circumstance that this is the day previous to the day he was taken ill, and declarations were admitted (to be sure without objection) by a witness of declarations that he made in regard to his health some days previous, and that he was complaining that he did not feel well. He then spoke specifically of the locality of the ill feelings. He complained of pain in his stomach. It seems to me it is of the same general character as when he complained previously to Johnson, and it may well be that he complained to the witness.

FIELD, J. There has been in the course of the trial some evidence about the state of his health by some of the witnesses, but I do not know that objection was taken to it or the attention of the court called to it in any way. Do you object to declarations made by Mr. Freeman of the condition of his health on Sunday?

Mr. WATERMAN. Yes, sir.

FIELD, J. There is one possible view in which it might seem to be competent. The defence have suggested that it is possible that he committed suicide by poison. The declarations of the state of his mind in regard to his health immediately before might have some competency on that issue. On the whole we are inclined to admit the statement he made on Sunday about his health.

Q. (By Mr. CRANE.) Now, Dr. Bates, will you state what time in the day this was? A. The service commenced at half-past four and continued just about one hour. It was just about half-past five.

Q. Will you state what he said to you and what you said to him? A. I asked him what was the matter, and he said he was sick. "Well," I said, "what are you here for? Why are you not at home?"

Mr. WATERMAN. Is this proper?

FIELD, J. Only so far as it makes intelligent his answers, that is all.

Q. Go on. A. He said he wanted to take the air, and wanted to see me. I asked him what he wanted to see me for.

FIELD, J. Well, you may confine yourself to any statements of his relating to his health or state of mind, and your questions which brought out these. I do not know whether the answer you are about to give does or does not—any general reasons for wanting to see you are not competent, but any statement he made concerning his health or condition of mind you may state. A. He said he wanted I should comfort him. He said he hadn't been well since Annie died.

Q. (By Mr. CRANE.) Any other statement? A. There was a little more conversation. I said other things to him.

Q. Did he reply to them? A. Yes, sir. I told him to be brave and fight the battle.

Q. (By FIELD, J.) Did they relate to his health or condition of mind, his replies? A. Yes, sir.

Q. (By Mr. CRANE.) State what you said, and if he made a reply to it state the reply also? A. I told him a great many men had had bereavement as hard and severe as he, and God had given them deliverance. It was a religious conversation.

Q. Anything that he said in reference to his health? A. Nothing, or only that he had been sick, hadn't been well since Annie died.

Q. What was his appearance, whether he appeared to be dis-

spirited, down-spirited? A. He was very pale, very white, cast down, sad.

Q. Is there anything else that you can state in reference to his appearance?

Cross-examination.

Q. (By Mr. WATERMAN.) Mr. Bates, he only spoke of his feelings, did he? A. Spoke of his health, said he was sick.

Q. Stated what you have said, that he hadn't been well since Annie's death? A. Yes, sir.

Q. That is all he said? A. That was the substance of it. There was a little more conversation.

Q. But that was all that he said about his health, I understand? A. Yes, sir.

Q. And that was after the meeting was over? A. Yes, sir.

Q. After your address? A. Yes, sir.

Q. How long did you address the people there? A. About thirty minutes. The singing and devotional exercises took up about one-half an hour, and I talked about half an hour, — the whole service was about an hour.

Q. You don't know whether he was late to the opening service or not? A. The first I saw of him he was sitting there holding his face in his hands.

Q. That was after the service was over? A. No, sir, while I was speaking.

REV. GILBERT C. OSGOOD — *sworn.*

Q. (By Mr. CRANE.) What is your christian name? A. Gilbert C. Osgood.

Q. What is your occupation? A. Clergyman.

Q. Where do you reside? A. Holyoke, this State.

Q. Do you know Mrs. Sarah J. Robinson? A. Yes, sir.

Q. When did you become acquainted with her? A. I first met Mrs. Robinson during the summer of 1885 at Somerville. She united with the church of which I was then pastor, — the Park Avenue Methodist Church at West Somerville at that time.

Q. Did you know Mr. Freeman? A. No, sir.

Q. Whether you visited her house or not? A. Yes, sir, several times, especially during the sickness of her daughter, — sickness and death. I officiated at the funeral of her daughter Lizzie, and was with them quite frequently during the sickness of her daughter.

Q. (By FIELD, J.) Do you know whether your first acquaintance with Mrs. Robinson was before or after Mr. Freeman's death? A. My first acquaintance with Mrs. Robinson was during the summer of 1885. I think I first met her during July, may have been August.

Q. After she moved to Somerville? A. Yes, sir. I don't know when Mr. Freeman died.

Q. (By Mr. CRANE.) Do you know at the time you were in Somerville what her character was for kindness and humanity? A. I saw her in her family considerable —

Mr. WATERMAN. I object. That is too general.

FIELD, J. What was her general reputation for humanity and kindness? I suppose is the form of the question; if he knows it, not what he especially observed, but if he knows what her general reputation was in the community where she was known for kindness and humanity. If he does know it, he can state what it was.

Q. (By Mr. CRANE.) Well, do you know, Mr. Osgood, what it was? A. Yes, sir, I know what it was in my church. It was often spoken of, — her marked kindness toward her children, — in the church of which I was pastor.

FIELD, J. That is not the question quite. The question is, whether you know her general reputation for kindness and humanity, not only towards her children, but towards any persons with whom she was brought into general relation? A. I never heard anything contrary to that, either in the church or community.

Q. (By Mr. CRANE.) Do you know Dr. Beers? A. I was introduced to Dr. Beers one evening at church, after the service, by Mrs. Robinson.

Q. How frequently did you see him at the church? A. Well, not frequently. I think perhaps he may have been there three times, twice certainly that I remember of, and I think three times.

Q. With Mrs. Robinson always? A. Yes, sir.

Q. You never met him at the house, I take it? A. No, sir.

Q. During what time was this, Mr. Osgood? A. That I met Dr. Beers?

Q. Yes, at the church? A. It was in the latter part of the winter in 1886, perhaps in March. I think it was soon after Lizzie's death, February or March of 1886.

Mr. WATERMAN. I will only suggest that was a long time after this transaction, either one of these transactions, may it please your Honors. Mr. Freeman's death was in June.

FIELD, J. I infer that the whole testimony relates to the summer beginning with July or August, 1885, and afterwards. I suppose there is no doubt about that. The witness has so testified.

Mr. WATERMAN. I understood him to say 1886.

FIELD, J. He testified to some things in 1886, about Dr. Beers, but the beginning of his acquaintance was in July or August, 1885, as I understand it.

The WITNESS. Yes, sir.

Mr. WATERMAN. But I spoke of Dr. Beers. I understood him to say in 1886.

THE WITNESS. February or March, 1886.

MR. WATERMAN. That was a year after, the next year.

FIELD, J. Yes, sir. I do not understand that there was any request for a ruling before the court.

MR. WATERMAN. I do not know as there was anything to rule about, but putting in the acquaintance of Dr. Beers at that time, I do not see how it has any relevancy to this case.

MRS. MARY B. OSGOOD — *sworn*.

Q. (By MR. CRANE.) Your christian name is what? A. Mary B. Osgood.

Q. You are the wife of Gilbert Osgood? A. Yes, sir.

Q. You reside in — A. Holyoke, Mass.

Q. When did you first become acquainted with Mrs. Robinson, if at all? A. In the summer of 1885 at West Somerville.

Q. Under what circumstances? A. I was introduced to her by my husband, I think at the church, if I remember rightly.

Q. She attended his church? A. Yes, sir.

Q. Did you know Dr. Beers? A. No, sir, not personally. I saw a gentleman with Mrs. Robinson at church and inquired of my husband who it was, and he told me.

Q. Do you know what Mrs. Robinson's reputation in the community was for kindness and humanity during the time of your acquaintance? A. Well, I didn't hear many people speak of her. I saw her at her own home during the sickness of her daughter Lizzie, and some friends also visited her at the time. They spoke of her as being exceeding kind.

FIELD, J. You need not say what they said. The first question is whether you think you have sufficient knowledge of her general reputation for those qualities of kindness and humanity so that you can say that you know her general reputation in that respect.

THE WITNESS. I know very little of her reputation; only what these friends told me.

Q. What was the general speech of people in reference to that?

A. That she was a very kind mother, as far as I ever heard.

Q. How frequently did you see her? A. I met her at church four or five times, and at her house, I think either three or four times. I am not quite certain.

Q. The children attend church there? A. Yes, sir, some of them, the younger ones.

Cross-examination.

Q. (By MR. WATERMAN.) Mrs. Osgood, when was the first time you saw Mrs. Robinson to know who she was? A. I can't tell you the month, but it was in the summer of 1885 at the church.

Q. Can't you fix the time some month, or about the time in the month? A. No, sir, I don't remember the month. I think it was in the summer, either July or August.

Q. It was in July or August? A. I think so, as well as I remember.

REV. ALPHEUS R. NICHOLS — *sworn*.

Direct examination.

Q. (By Mr. CRANE.) What is your occupation? A. Clergyman.

Q. Where do you reside? A. In Somerville.

Q. Pastor of what church? A. Park Avenue Methodist Church.

Q. How long have you been there? A. From the last of April, 1886.

Q. Since the last of April, 1886? A. Yes, sir.

Q. When did you become acquainted with Mrs. Robinson, if at all? A. The first time I saw Mrs. Robinson was the Tuesday after the last Sabbath in April. I don't know the date.

Q. Where? A. It was in the residence of Mr. Lewis. When we went down to Somerville we stopped there, and she was called into the house.

Q. Did she attend your church? A. Yes, sir.

Q. Was she a member? A. Yes, sir; she was a member.

Q. You were the successor of Mr. Osgood? A. Yes, sir.

Q. Whether she was a constant attendant there? A. She was a regular attendant. She was arrested the August after I was there, and they were all strangers to me comparatively.

Q. Now during the time of your acquaintance with her, from the time you went there until her arrest, did you know what her reputation for kindness and humanity was among the people? I ask you if you knew. A. No, sir; I don't know of anything. I never heard anything against her.

(Cross-examination waived.)

MRS. AUGUSTA A. GARDNER — *sworn*.

Q. (By Mr. CRANE.) Where do you reside? A. South Weymouth.

Q. Are you married? A. Yes, sir.

Q. Your husband's name? A. Leander Gardner.

Q. Do you know Mrs. Robinson? A. Yes, sir.

Q. How long have you known her? A. Eleven years.

Q. Where did you become acquainted with her? A. Boston Highlands.

Q. Under what circumstances? A. I lived in the same block with her.

Q. And your family consisted of whom? A. My husband and myself and one daughter.

Q. And her family consisted of whom? A. Willie and Lizzie, and Charlie and Emily, — four children.

Q. And her husband? A. Yes, sir.

Q. What was her husband's business? A. He was a carpenter.

Q. How long did you live there? A. I lived there two years.

Q. And how long did they remain there? A. They moved away when I did.

Q. And how frequently have you seen her since? A. Well, I have seen her perhaps four or five times a year.

Q. Where? A. Well, in different places where she lived, and then we moved together in the same house when we left the Park.

Q. And where did you move then? A. Marcella Street.

Q. How long did you remain there? A. Six months.

Q. And where did she move then? A. Mt. Auburn, I think.

Q. Now you say you have seen her frequently since that time at places? A. Yes, sir.

Q. Where? A. At her house.

Q. How frequently have you called at her house? A. Well, I couldn't say, but perhaps four or five times a year.

Q. She called at yours? A. Yes, sir. She has done dress-making for me.

Q. You knew her family? A. Yes, sir.

Q. Did you know her sister, Mrs. Freeman? A. Yes, sir.

Q. When did you become acquainted with her? A. Well, I first saw her when I lived at the Park, at the Highlands.

Q. How frequently would she visit her sister, Mrs. Robinson? A. That I couldn't say.

Q. How frequently did you see Mrs. Freeman? A. Well, I never saw her very many times.

Q. Do you know what the relations were between Mrs. Freeman and Mrs. Robinson, whether kind or otherwise? A. So far as I know they were kind.

Q. What have you seen to indicate that? A. Well, kindness, the same as sisters towards each other. I never saw anything but kindness.

Q. And how frequently did you see them together? A. Well, I never saw them except when Mrs. Freeman was at her house. That is all. Never at any other time except when she was at Mrs. Robinson's house.

Q. Do you know where Mrs. Freeman lived then? A. No, I don't.

Q. Did you visit Mrs. Robinson after her husband died? A. Yes, sir.

Q. Whether you saw Mrs. Freeman there at any time? A. Yes; I saw Mrs. Freeman there when her husband was buried.

Q. Did you visit them after Mr. Freeman moved to Mrs. Robinson's house? A. Yes, sir; I called there.

Q. What were the relations between them? A. Well, I didn't see Mr. Freeman.

Q. Do you know where he was? A. No, sir; I don't.

Q. Do you know what Mrs. Robinson's reputation for kindness and humanity was? A. Never saw nothing but kindness towards anybody.

Q. That is hardly the question. Whether you know what the speech of people generally was? A. Never heard nothing but the kindest words from everybody, so far as she was concerned.

Q. Your daughter and Lizzie were intimate, I believe, were they not? A. Yes, sir.

Q. Visit frequently? A. Yes, sir.

(Cross-examination waived.)

BERTHA L. GARDNER — *sworn.*

Q. (By Mr. CRANE.) You are the daughter of the witness that has just testified? A. Yes, sir.

Q. You live with your parents? A. Yes, sir.

Q. When did you first become acquainted with Mrs. Robinson? A. Between eleven and twelve years ago.

Q. Where? A. 14 Bromley Park.

Q. Where did they live then? A. No. 10 Bromley Park.

Q. How long? A. Two years we lived there.

Q. How long did they live there? A. I should say about a year and a half.

Q. Where did they move? A. 90 Marcella Street.

Q. Where did you? A. The same house.

Q. After that, how frequently did you see Mrs. Robinson, or visit the family? A. Well, I couldn't tell you. I was over there perhaps four or five times a month. Some months not as many times and some months more.

Q. Lizzie was about your age? A. She was about two years older, I think.

Q. You were an associate of hers? A. Yes, sir.

Q. Did you know Mrs. Freeman? A. Yes, sir.

Q. Where did you become acquainted with her? A. At Mrs. Robinson's.

Q. How frequently did you see her there? A. I couldn't tell you how frequently I saw her.

Q. Now, did you visit Mrs. Robinson after Mrs. Freeman died?
A. Yes, sir.

Q. How frequently? A. Well, I don't know. I have been there and stayed a week at a time, and other times I would just go there and call and perhaps stay over night.

Q. Were you there and stayed a week when Mr. Freeman was there? A. Yes, sir.

Q. After his wife died? A. Yes, sir.

Q. Now, what were the relations between Mrs. Robinson and Mr. Freeman during the time you were there? A. I never saw anything but kindness and pleasantness between both parties.

Q. What were her relations with her sister Mrs. Freeman? A. Always very kind.

Q. Did you ever see Dr. Beers at Mrs. Robinson's? A. Yes, sir.

Q. How frequently? A. Once.

Q. When was that? A. When they lived at 54 Boylston Street. I think that was the number.

Q. What time in the year? A. I couldn't tell you.

Q. Day or evening? A. Evening.

Q. How long did he stay? A. I don't remember, although I stayed over night there. I can't remember, only that I met him. That is all.

Q. Do you know who Dr. Beers was? A. No, sir.

Q. Did you know of his being introduced to anybody? A. No, sir. I never met him before that evening.

Q. Was he introduced to you then? A. He was.

Q. By whom? A. Either Lizzie or her mother, I have forgotten which.

Q. Have you seen him since? A. Not until I met him here. Not until I saw him in this room.

(Cross-examination waived.)

JOHN R. NEEDHAM—*sworn.*

Q. (By Mr. CRANE.) What is your business? A. Printing office on Washington Street.

Q. Do you know Mrs. Robinson? A. Yes, sir.

Q. How long have you known her? A. About ten years.

Q. Where did you become acquainted with her? A. Her daughter was in my Sunday-school class at that time.

Q. What church? A. Ruggles Street Methodist Church.

Q. In Boston? A. Boston.

Q. Mrs. Robinson attend there? A. Yes, sir.

Q. She was not a member of that church, was she? A. I can't say. I was not a member. I was a member of the Congregational Church, and I used to teach in the Sunday-school there. I have seen her.

Q. Did you know Mrs. Freeman? A. Yes, sir.

Q. When did you become acquainted with her? A. Well, I used to visit more or less my scholars, and I have met her several times at the house of Mrs. Robinson.

Q. When did you last see her? A. Mrs. Freeman?

Q. Yes. A. That extended over several years, meeting her at different times. But I can't fix any precise date.

Q. You knew Mr. Freeman also? A. Yes, sir.

Q. Where did you see him? A. I saw him there also.

Q. Do you know what the relations were between Mrs. Robinson and her sister? A. Uniformly pleasant, so far as I could see.

Q. How was it in respect to Mr. Freeman? A. The same way.

Q. You knew what Mrs. Robinson's reputation was for kindness and humanity? A. Always spoken well of so far as I have heard.

(Cross-examination waived.)

MISS LIZZIE J. INGRAHAM — sworn.

Q. (By Mr. CRANE.) Where do you live? A. 20 South Street, Cambridge.

Q. Do you know Mrs. Robinson? A. Yes, sir.

Q. When did you first become acquainted with her? A. About ten years ago.

Q. Where? A. In Mt. Auburn.

Q. Did you know Mrs. Freeman? A. Yes, sir.

Q. Where did you become acquainted with her? A. At Mrs. Robinson's.

Q. How frequently did you see her there? A. I saw her very seldom.

Q. Did you know Mr. Freeman? A. Yes, sir.

Q. How frequently did you see him? A. Well, I didn't see him very much until he came to live with Mrs. Robinson.

Q. How frequently then did you see him? A. Well, I may have seen him once a week.

Q. What relation are you to Mrs. Robinson? A. My mother is a cousin of Mrs. Robinson.

Q. So you were in there frequently? A. Yes, sir.

Q. How near did you live to her? A. She lived on the same street with me at one time.

Q. Do you know what the relations were between Mrs. Robinson

and Mr. Freeman, whether kind or otherwise? A. So far as I saw, she was very kind.

Q. And also do you know what her relations were with Mrs. Freeman? A. Very kind also.

Q. Where did you attend church? A. The Orthodox, on Garden Street.

Q. Didn't go with them? A. No, sir.

Q. Do you know where they went when they lived on Boylston Street? A. I think they went to the Methodist Church on North Avenue, I am not certain.

Q. Did you see Dr. Beers there at Mrs Robinson's? A. Yes, sir.

Q. How frequently during the time that Mr. Freeman was there? A. Well, I didn't see him very much. I never saw him while Mr. Freeman was there, not together; but I saw him a few times at the house when Mr. Freeman lived there.

Q. How many times in all did you ever see Dr. Beers there at the house of Mrs. Robinson, from beginning to end? A. Well, I have seen him considerable.

Q. Sundays? A. Yes, sir.

Q. Daytimes? A. Yes, sir.

Q. Evenings? A. I don't remember of ever seeing him in the evening.

Q. Did you know whether Dr. Beers was married or single? A. I understood him to be a single man.

(Cross-examination waived.)

MRS. JANE INGRAHAM — *sworn*.

Q. (By Mr. CRANE.) You are a widow? A. Yes, sir.

Q. Where do you reside? A. 20 South Street.

Q. Cambridge? A. Yes.

Q. Do you know Mrs. Robinson? A. Yes, sir.

Q. How long have you known her? A. Ten or eleven years.

Q. Did you know Mrs. Freeman? A. Yes, sir.

Q. When did you become acquainted with her? A. Well, about the same time, I guess, — ten or eleven years ago.

Q. Where were they living? A. They were living at Mt. Auburn then.

Q. Where were you living then? A. The same place, on South Street.

Q. Where you are now? A. Yes, sir.

Q. How frequently did you see Mrs. Robinson? A. Well, I didn't see her very often when they lived at Mt. Auburn at that time. Perhaps not more than once in two or three weeks.

Q. Take it in 1884 and 1885, how frequently did you see her?
A. Well, I would see her perhaps once or twice a week.

Q. Where did you see Mrs. Freeman? A. Well, I used to meet her occasionally when I went over to Mrs. Robinson's; not very often.

Q. Do you know what the relations between Mrs. Robinson and her sister Annie were, whether they were kind or otherwise?

A. They were always very kind when I saw them.

Q. Did you know Mr. Freeman? A. Yes, sir.

Q. Did you visit Mrs. Robinson after he moved there? A. Yes, sir; I did.

Q. How frequently? A. Oh, once or twice or three times a week perhaps.

Q. What were the relations between Mrs. Robinson and Mr. Freeman while he was boarding there? A. They were always friendly whenever I saw them.

Q. Do you know Dr. Beers? A. Yes, sir; I have seen him.

Q. How frequently did you see him there? A. Well, I saw him there quite frequently.

Q. How many times a week should you say? A. Well, I might not see him for two or three weeks, perhaps, and then might see him once or twice in one week.

Q. See him there Sundays? A. Yes, sir; sometimes.

Q. Do you know who he was? A. I knew he was represented as Dr. Beers. That is all I knew about him.

Q. Married or single? A. As a single man. He was a single man, the way it was represented to me.

Q. Did you have any talk with him? A. No, sir; not anything to amount to anything.

Q. Were you ever introduced to him? A. Yes, sir; I was.

Q. By whom? A. Mrs. Robinson, I believe.

Q. Introduced as who? A. As Dr. Beers.

Q. Have you seen him in the court house to-day or yesterday?
A. No, sir; I have not.

Cross-examination.

Q. (By Mr. WATERMAN.) What kind of a looking man was Dr. Beers? A. Well, he was an oldish looking man with a gray beard.

Q. Did he look so in 1884? A. Yes; he looked as though he might be.

Q. When did you see him the last time? A. In the court room.

Q. When? A. At the last term of the court here. I don't remember when that was exactly.

Q. Did you speak to him? A. Yes, sir; I did.

Q. You say you first knew him, when? A. I don't know as I said when I did first know him.

Q. Won't you state? A. I said I saw him at Mrs. Robinson's house. That was where I first saw him.

Q. Well, when did you first become acquainted with him? A. Well, I don't know how many years ago.

Q. Well, how long ago was it, as near as you can tell? Get it as near as you can. A. It might have been in 1884; I am not certain.

Q. Was it earlier than that or later than that? A. I couldn't say.

Q. Where did you see him first? A. I saw him in Mrs. Robinson's house.

Q. At what place? A. On Hughes Street.

Q. When she lived there? A. When she lived there, yes.

Q. Was her husband living at that time? A. No, sir; he was not.

Q. Did you talk with him? A. I may have had a few words of conversation with him, not anything to speak of.

Q. Never? A. No, sir; never.

Q. Did you know anything about him except what Mrs. Robinson told you? A. No, sir; I did not.

Q. She introduced you to him? A. Yes, sir.

Q. She said he was a doctor? A. Yes, sir.

Q. Did she say anything else about him? A. Well, I don't know as she did particularly.

Q. Now, how many times did you see him at her house in all? A. Well, I couldn't say. I saw him there as much as nine or ten times in all.

Q. Covering how much time? A. Since the time I first saw him there.

Q. Nine or ten times; how much time did that cover, a month or two or a year or two? A. Two or three years' time.

Q. And always saw him at Mrs. Robinson's? A. Yes, sir; I always saw him there. Never saw him anywhere else that I know of.

Q. Are you a cousin of Mrs. Robinson? A. Yes, sir.

CHARLES H. ROBINSON—*sworn*.

Q. (By Mr. CRANE.) How old are you? A. Nineteen.

Q. You are a son of Sarah J. Robinson? A. Yes, sir.

Q. Where do you live now? A. No. 8 Murray Street, Cambridge.

Q. What are you doing? A. Working for the Western Union Telegraph Company, Harvard Square.

Q. Do you remember when your father died? A. Yes, sir.

Q. Do you remember your aunt Freeman? A. Yes, sir.

Q. After your father died, the family consisted of whom? A. Of my mother, brother, three sisters and myself.

Q. How old is your brother, — how much older than you? A. Well, he was a good deal older than I was, — two or three years.

Q. What was his business? A. He was a teamster for W. F. Holmes, Cambridge.

Q. What was his business when Mrs. Freeman died? A. He was driving team for Holmes then.

Q. Was he ever on the railroad? A. Yes, sir.

Q. How long? A. He was on the railroad for one or two years.

Q. When did he leave the railroad? A. He left the railroad just a few months before he died.

Q. Do you know what pay he was receiving when he was on the railroad?

Mr. WATERMAN. I object to that. I don't see the competency of it.

Q. (By Mr. CRANE.) Where were you working at the time Mrs. Freeman died? A. I was working for Cupples, Upham & Co.

Q. Who were they? A. Booksellers over in Boston.

Q. And was your sister working anywhere — Lizzie? A. I don't think she was. I think she was taking care of the children.

Q. Where was your mother working? A. R. H. White's.

Q. What was she doing? A. She was a dress-maker.

Q. Who did the housework, then? A. My sister.

Q. Sister Lizzie? A. Yes, sir.

Q. When did you first hear that Mrs. Freeman was sick? A. They sent word over to me one afternoon at the store, I believe.

Q. Did you know about your mother going over there to take care of her? A. Yes, sir.

Q. The children — Elizabeth and Thomas Arthur — were carried over to your house, were they not? A. Yes, sir.

Q. Did you attend the funeral of Mrs. Freeman? A. I only went to the house, that is all; I didn't attend the funeral at the church.

Q. Didn't go to the church? A. No, sir.

Q. Do you know who went in the carriage with your mother? A. I do not.

Q. What were you doing when Mr. Freeman went to your house to live? A. I was working in the bookstore.

Q. At the same place? A. Yes, sir.

Q. And Willie was working where? A. He was on the horse-cars then.

Q. Where was Mr. Freeman working? A. He was working for the Boston Machine Company, South Boston.

Q. Did he go in town with you? A. No, sir.

Q. What time did he go in usually? A. He used to start away from Cambridge so as to get the half-past six car for South Boston from Park Square.

Q. What time did he get home at night? A. Used to get home about seven or a little after.

Q. Before or after you? A. Sometimes before I did, and sometimes after.

Q. Where did he usually spend his evenings when he was there? A. He always spent them at home, only the nights he went to the lodge.

Q. Did you go out with him evenings? A. Yes, sir; sometimes.

Q. Do you know when he was taken sick? A. Yes, sir.

Q. Did you go to meeting with him the Sunday before? A. I did.

Q. Where? A. Over on Boston Common.

Q. Do you know what day he was taken sick? A. He was taken sick abed that following Monday. Since he went to work for the Norway Steel and Iron Company he has always complained of being sick.

Q. You say he was working for the Norway Steel and Iron Company? A. At the time of his death.

Q. What company did he work for before that? A. The Boston Machine Company.

Q. And how long did he work there? A. I don't know when he went to work there. He went to work there before my aunt died.

Q. You went over to the Common? A. Yes, sir.

Q. Do you remember seeing Mr. Bates there? A. I did.

Q. Did you go with your uncle? A. Yes, sir.

Q. What time did you go home? A. It was after the services was over on the Common; probably a quarter of five or five o'clock we started.

Q. Did you walk home? A. Yes, sir.

Q. Did you have any talk with him going over the bridge going home? A. Yes, sir.

Q. State what it was, in reference to his condition. I want to know what he said in reference to his feelings, and what he said in reference to anything that he proposed to do.

Mr. WATERMAN. I object to that. I don't think that comes within the ruling. He can state any fact as to his physical condition, if he knows any.

FIELD, J. What he said as to the condition of his health, even on

Sunday preceding the Monday when he was taken sick, we think was competent. What the further statement is we don't know. As to the condition of health, or his feelings in regard to being well or ill at that time, we have already admitted.

MR. GOODRICH. We expect his answer will be in respect to his condition of health; in fact, respecting his existence, if it is necessary to state that in order to make it more intelligible.

FIELD, J. We are disposed to admit the latter, as indicative of the state of mind at the time.

Q. (By MR. CRANE.) Now will you state what he said when you were going home that night? Where was it? A. It was on the bridge.

Q. What bridge? A. West Boston bridge.

Q. Who was with you? A. There was only myself and my uncle. There was nobody with us; two of us.

Q. Now what did he say? A. Well, we had got along the bridge a little ways, and he said he had a good mind to jump overboard; that he didn't have nothing to live for.

Q. What did you tell him? A. I told him he had better not.

Q. What did he say when you told him he had better not? A. Well, he didn't say anything then.

Q. What was said about his health, if anything? A. Well, he told me that he had never been well since auntie died.

Q. How was that fact? A. Well, as far as I could see, he had always been sick since my auntie died.

Q. Now, when did you see him on Monday, what time? A. I seen him Monday night when I got home.

Q. Where was he? A. He was on the bed, sick.

Q. Who stayed with him that night? A. Well, either my mother or sister, I don't know which.

Q. Did you stay with him any night? A. Well, I sat in the room there with him through the evening, that is all.

Q. Was you there when he died? A. I was in bed at the time he died.

Q. He died in the night-time? A. Yes, sir.

Q. Did you know Dr. Beers? A. Yes, sir.

Q. When did you become acquainted with him? A. In the year 1883. He lived on Hughes Street.

Q. How frequently did he call at your house? A. He used to be there almost every day, so far as I know, and on Sundays.

Q. Any evenings? A. Sometimes.

Q. How frequently would he come Sundays? A. He used to come almost every Sunday afternoon.

Q. How long did he stay? A. Well, he would stay all the afternoon.

Q. Who was he? Who is he? A. They always told me he was a physician.

Q. Were you ever at his office? A. I was over to his office in Park Square once.

Q. When was that? A. That was quite a while ago. Before my sister died.

Q. Where was his office? A. His office was right in Park Square, there on Providence Street.

Q. What sort of an office was it? A. Well, it looked as much like a place where they made medicine as anything.

Q. Was there any sign there? A. There was a little sign on the door there, that was all.

Q. What was it? A. It just said "Dr. Beers."

Q. And that was what number? A. I couldn't tell you the number.

Q. How many rooms did he have? A. He had two.

Q. What was he doing when you were in the office and saw him? A. Well, he was sitting at his desk, writing.

Q. Were you ever in there more than once? A. That is the only time I have been to that office.

Q. Did you go to any other office? A. I went to his office once or twice at the corner of Tremont and Eliot Streets.

Q. When was that? A. One time was when Arthur died.

Q. What did you go there for? A. I went in to tell him. I was going out to Forest Hills.

Q. Did you go into the office? A. Yes, sir.

Q. What did you see there?

MR. WATERMAN. I don't see how that is competent. I object to it. I thought it would come to some head after a while.

FIELD, J. We don't quite see the competency of the details. Of course you can prove that Dr. Beers had access to Mr. Freeman and Mrs. Freeman, and the general character of his business, and what opportunities he had, while Mr. Freeman was alive.

Q. (By MR. CRANE.) Did you know about his visiting Mrs. Freeman at any time? A. Yes, sir.

Q. What did you know about that? A. I heard my sister say that he was over there.

MR. WATERMAN. I object to that.

FIELD, J. Of course you are to testify only to what you know yourself.

THE WITNESS. I haven't seen him myself.

Q. (By MR. CRANE.) This office at the corner of Tremont Street and Eliot was a doctor's office? A. Yes, sir. He and Dr. Coleman were in together.

Q. What was the sign on the door? A. Drs. Coleman and Beers.

Q. You never saw him at your aunt's? A. No, sir.

Q. How many times did you see him at your mother's house after Mr. Freeman came there to live? A. Well, I never seen him there much through the days, because I wasn't there.

Q. How was it Sundays? A. I used to see him most every Sunday there.

Q. Do you know whether he was there the Sunday before your uncle was taken sick? A. Yes, sir.

Q. He was there? A. Yes, sir.

Q. Was he there when you went over to Boston? A. Yes, sir. We left him in the house when we went over to Boston.

Q. Did Mr. Freeman know him, and he know Freeman? A. Yes, sir.

Q. Did you see them talking together? A. I don't remember seeing them talking together.

Q. Have you at any time? A. Yes, sir.

Q. Where was Dr. Beers when you and Freeman left that day to go over to the city? A. He was in the front room.

Q. With whom? A. I don't remember as there was any one in with him.

Q. Did you say he was there when you returned? A. No, sir; he had left.

Q. How frequently did your aunt visit you and your mother? A. Well, she used to come there quite often, sometimes through the week and sometimes on Sundays, and we used to go over there.

Q. Take it for a year or two before she died, how frequently did she visit your mother? A. Quite often.

Q. Sundays? A. Yes, sir.

Q. How frequently Sundays? A. She used to come over in the morning and stay all day.

Q. Mr. Freeman come too? A. Yes, sir.

Q. Stop to dinner? A. Yes, sir.

Q. How frequently did that occur? A. Well, it was very near every Sunday that it was pleasant.

Q. What were the relations between your mother and your aunt? A. There was always sisterly love and affection; just the same treatment as there was in our own family; the very best.

Q. And that was always so? A. Yes, sir.

Q. Did your mother go frequently over to her house? A. Yes, sir; and we all used to go over there frequently.

Q. Whether any of your brothers and sisters stayed with them any winter? A. Me and my sister Amy stayed with them two winters out in the country.

Q. Where was that? A. Highland Lake Grove.

Q. What winters did you stay there? A. I don't know exactly what years, but it was when we lived in Roxbury.

Q. What was he doing there — Mr. Freeman? A. He was taking care of the place through the winter. It was a summer resort.

Q. And you went out and stayed during the winter? A. Yes, sir.

Q. You and your sister stayed two winters? A. Yes, sir.

Q. Which sister? A. Sister Amy, the little one.

Q. How old was Amy then? A. She was about three or four years old, I think.

Q. Did your mother come out frequently to see you? A. Yes, sir.

Q. How frequently? A. Well, she used to come out probably through the week. She used to do dress-making out there for my aunt.

Q. And what were the relations between your mother and Mr. Freeman? A. They were always very kind and affectionate.

Q. He used to come over and see your mother? A. Yes, sir.

Q. With your aunt? A. Yes, sir.

Q. What was your mother's treatment of Mr. Freeman while he was at your house? A. Well, it was the very best. Just the same treatment as all of us got. He was treated just the same as one of the family.

Q. That was always kind? A. Yes, sir.

Q. Where did Mr. Freeman go to church usually? A. He used to go to the Methodist Church when he lived with us, only once or twice he went to South Boston.

Q. After your father died did you have prayers at your home? A. Yes, sir.

Q. When? What time of day? A. Well, at every meal time, and at evening.

Q. Did you at the time Mr. Freeman was there? A. Yes, sir.

Q. Did your mother take part in the exercises? A. Yes, sir.

Q. And Mr. Freeman? A. Yes, sir.

Q. Who would usually read the Scriptures? A. Well, my uncle would sometimes, and sometimes my brother, when my brother was at home.

Q. When your brother was not at home, who would? A. My mother or my uncle.

Q. And that was the practice clear up to the time of Mr. Freeman's death? A. Yes, sir.

Q. And afterwards too? A. Yes, sir.

Q. How about your meals at the table? A. Always had prayers every meal.

Q. Who would ask the blessing there? A. My brother.

- Q. Where would your mother go to church? A. Cottage Street.
Q. Cottage Street Methodist Church? A. Yes, sir.
Q. Where did she go when Mr. Freeman was there? A. Cottage Street Methodist Church.

Cross-examination.

Q. (By Mr. WATERMAN.) What time was it that you said you were at the office of Coleman and Beers at the corner of Tremont and Eliot streets? A. It was the day Arthur died — the next day that he died.

Q. That was in 1886, in July? A. Yes, sir.

Q. Did you ever hear Dr. Beers pray at your mother's house?
A. No, sir.

Q. Was he there attending prayers, do you think? A. I don't remember his ever being there.

Q. Did he have anything to do with the family worship there?
A. No, sir.

Q. Nothing, you think? A. No, sir.

Q. What was he doing alone in the front room when you went away to go to Boston? A. I don't know.

Q. Did he have a bible with him? A. No, sir.

Q. Your mother wasn't there? A. No, sir.

Q. Did you ever know of his going to church with your mother?
A. Well, he always went to church; but some of the rest would be with mother too.

Q. He always went along well enough with all of you, didn't he?
A. Yes, sir.

Q. When did you know of his going to church the first time?
A. I couldn't say.

Q. Was it on Sunday? A. Yes, sir. It was, I think, when we lived in West Somerville.

Q. How long ago was that? A. We lived in West Somerville until August, 1886, and we were living there about a year.

Q. When was the first time you saw Dr. Beers? A. I saw Dr. Beers in 1883 or 1884, around Cambridgeport.

Q. Had he just got back from New York at that time? A. I don't know. He was living over at Allston then.

Q. How did you know he lived in Allston? A. Because he told me he did.

Q. Where was he when he told you that he lived in Allston?
A. On Hughes Street, at our house.

Q. Was your mother there? A. Yes, sir.

Q. Did he say how long he had lived in Allston? A. He didn't say. He told me that in winter time he lived in Boston, and in the summer in Allston.

Q. Didn't say how long? A. No, sir.

Q. Did he tell you where his family was? A. He told me his wife was dead, and he was living with one of his sons or his daughter—I don't remember which.

Q. Did he say where he lived with his sons or his daughter?

A. He lived on Franklin Street in Allston in the summer time.

Q. Did you know of his living in Boston? A. Yes, sir.

Q. When did he live in Boston? A. He has lived there through the winter.

Q. Whereabouts? A. On Appleton Street.

Q. You knew it? A. Yes, sir.

Q. Did you go there? A. Yes, sir.

Q. Did your mother go there? A. Not that I know of.

Q. Didn't hear her say that she had been there? A. No, sir.

Q. Did she send you over? A. No, sir. My sister sent me there.

Q. Was your mother present when your sister sent you there?

A. I don't remember whether she was or not.

Q. Did you go of an errand? A. Yes, sir.

Q. Carry a letter? A. Yes, sir.

Q. From whom? A. My sister.

Q. Who wrote the letter? A. So far as I know, my sister wrote it.

Q. You don't know who wrote it? A. No, sir. I suppose it was my sister.

Q. Did the doctor go to your house pretty soon after that?

A. I think he came out that afternoon or the next day.

Q. That same afternoon? A. I think so.

Q. How long did he stay? A. I don't know. I wasn't there when he came out, and wasn't there when he went away.

Q. Was your mother there? A. I don't know.

Q. You were not there at all? A. Not when he came out there.

Q. You were there when he went away? A. No, sir; I was not.

Q. How do you know he was there? A. Well, they told me he had come out.

Q. What time in the day did you carry the letter to him on Appleton Street? A. It was about one or two o'clock Sunday noon.

Q. Was that on Sunday? A. Yes, sir.

Q. Did you go right back home? A. No, sir.

Q. What time did you get home? A. I got home probably about four or a little after four.

Q. Now when you got home was Dr. Beers there? A. No, sir.

Q. Who told you he had been there? A. I don't remember whether he had come out that Sunday or the next day.

Q. Did you see him whenever he did come out? A. I seen him two or three days after that.

Q. I mean in response to that letter that you carried to him?
A. No, sir; I didn't.

Q. When was that? A. It was one Sunday that I carried the letter. I don't know what month it was in.

Q. What year? A. It was in the latter part of 1885, or the commencing of 1886. I don't remember which. It was before my sister died, I know.

Q. Lizzie, you mean? A. Yes, sir.

Q. How old are you? A. Nineteen.

Q. Did your mother have a family physician attend her at any time during the years 1883 to 1886? A. Yes, sir.

Q. Who was it? A. Well, Dr. Stevens was the family physician when we lived in West Somerville. When we lived in Old Cambridge, Dr. Nichols was. When we lived in Cambridgeport, Dr. Church attended her two or three times.

Q. Any other doctors that you think of? A. Not that I know of.

Q. And during the time when they were attending upon the family, Dr. Beers was calling all the time, wasn't he? A. Yes, sir.

Recess for five minutes.

W. A. LITCHFIELD — *recalled*.

Q. (By Mr. CRANE.) You testified the other day, did you? Your christian name is what? A. Winslow A. Litchfield.

Q. You testified yesterday? A. Yes, sir.

Q. Did you know Dr. Beers? A. No, sir. Well, yes, I knew him by personal sight. I never spoke with the man more than once or twice.

Q. Did you see him at the burial of Mrs. Freeman? A. I did.

Q. Did you also see him at the burial of Mr. Freeman? A. I saw him in the cemetery some three times. It was the time that Arthur was buried, Thomas Arthur; he was there at that time, but I couldn't positively say whether he was there the other time or not; but three times distinctly I remember of seeing him there.

Q. At the time of Mrs. Freeman's burial? A. Yes, sir.

Q. Prince Arthur Freeman and the boy? A. No, Thomas Freeman.

FIELD, J. He says he has seen him there three times,— once at the burial of Mrs. Freeman, once at the burial of Thomas Arthur Freeman,— but I do not understand him to have stated yet whether he remembers that he was there at the burial of Prince Arthur Freeman or not.

Q (By Mr. CRANE.) Will you state that, Mr. Litchfield; whether

you saw him at the burial of Prince Arthur Freeman? A. I couldn't state that positively.

Q. When was the other time you saw him? You say you saw him three times? A. I saw him at the time that Mrs. Freeman and Arthur Freeman were buried.

Q. And what other time? A. I can't tell you at what other time; I can't tell you whether it was at a funeral or some other time, but three times I remember of seeing him.

Mr. CRANE. That is all.

REV. LEWIS B. BATES — *recalled*.

Q. (By Mr. CRANE.) Did you see Dr. Beers at Mrs. Freeman's while she was sick? A. I saw a man there that they told me was Dr. Beers. I don't know Dr. Beers.

Q. He was pointed out to you as Dr. Beers? A. Yes, sir.

Q. Now, did you see Mrs. Freeman before Mrs. Robinson went there to take care of her? A. I don't know when Mrs. Robinson went there. They told me when I was called to the house that Mrs. Robinson hadn't come on account of sickness.

Q. Before you saw Mrs. Robinson there did you see Mrs. Freeman? A. I did.

Q. At whose request did you go there? A. Mr. Freeman's.

Q. Now, in what condition did you find her,—Mrs. Freeman? A. The first time was five days, I think, before her death,—four or five days before her death.

Q. (By FIELD, J.) The first time that you saw her? A. Yes, sir. It was a cold day, the windows were open, and there was no fire in the room, and I said that—

Q. (By Mr. CRANE.) Well, not what was said; but what was her condition? A. I said something must be done for her. She said that she expected to die, and she especially wanted to see me that I might be interested in the children, that her sister might have them. When I entered a complaint because of the coldness of the room, the people who were there—I can't say who they were—said that the doctors had ordered the windows open, and that there must not be any heat in the room. Her face was flushed, and she was panting for breath, and could only speak in a whisper then.

Q. That was before Mrs. Robinson went there? A. That was four or five days before she died. My next visit was the night before she died, and Mrs. Robinson was there.

FIELD, J. His testimony was that he saw Mrs. Freeman before he saw Mrs. Robinson, and that he first saw her four or five days before she died.

Q. (By Mr. CRANE.) By the way, the funeral was where?

A. What was then the Broadway Methodist Episcopal Church, what is now St. John's Methodist Episcopal Church.

Q. Did you see the carriage in which Mr. Freeman went? A. I did.

Q. Who were in it? A. Mr. Freeman, Mrs. Robinson, Willie, Lizzie and the boy.

Q. Was Miss Clough in the carriage? A. When it left the church there were no other ones in it,—no other persons in it. I went to the door of the carriage and helped the party in and bid them good-by.

Cross-examination.

Q. (By Mr. WATERMAN.) Mrs. Freeman? A. Mr. Freeman.

Q. Mrs. Robinson? A. Mrs. Robinson.

Q. And Lizzie? A. Lizzie.

Q. And nobody else? A. And Willie and Arthur,—I suppose it was Arthur; it was the boy.

Q. (By FIELD, J.) The Freeman boy? A. Yes, sir.

Q. (By Mr. WATERMAN.) That is, when they left the church? A. Yes, sir; when the procession was formed.

Q. Who were in that carriage when they left the house? A. I didn't go to the house. Brother Crawford was there and conducted the services, and I joined them at the church.

Q. You don't know who were there at the house? A. No, sir.

Q. You didn't go to the burial lot? A. No, sir.

Q. You don't know who rode in the carriage from there? A. No, sir.

Q. Now, I don't know whether it was you that testified—where did you say you knew her? A. Mrs. Freeman?

Q. Mrs. Robinson. A. First in Chelsea.

Q. Did you say you knew her in 1875? A. 1873, first,—1872.

Q. Did you know her in 1875? A. Yes, sir.

Q. Where? A. At Chelsea.

Q. How late in the season of 1875 did you know her in Chelsea? A. Well, I couldn't say. It think it was some time during the year that she moved to the Highlands.

Q. Did you know her after that? A. Yes, sir.

Q. I mean were you where she was under your care or under your notice? A. Oh, no; no, sir, I was merely called. Her husband was very sick and given up to die at the Highlands, and I was called there two or three times.

Q. You didn't know anything about her at Somerville? A. I called there two or three times in sickness.

Q. Do you know the year that you were called there; can you give that? A. I could not.

Q. Was it in 1885? A. I couldn't say. I make twelve hundred calls a year, and I couldn't say.

FIELD, J. I think the testimony was that they didn't go there until 1886.

Q. (By Mr. WATERMAN.) Then you wouldn't say that you saw her in Somerville in 1885? A. No, sir.

BERTHA L. GARDNER — *recalled.*

Q. (By Mr. CRANE.) Do you remember of any conversation with Mrs. Freeman in reference to the baby? A. No, sir.

Q. During her sickness? A. No, sir.

Q. Did you have any talk with her about the baby? A. No, sir.

Q. With whom was that talk? A. Lizzie told me about the baby.

Q. Well, you can't state what Lizzie said. I thought it was with Mrs. Freeman that you had the talk? A. No, sir; I never had any talk with Mrs. Freeman.

MRS. SARAH JANE ROBINSON — *sworn.*

Q. (By Mr. CRANE.) Your name is Sarah Jane Robinson? A. Yes, sir.

Q. Where were you born? A. In the northern part of Ireland, Newton Hamilton.

Q. When? A. Forty-nine years ago, the twenty-sixth day of last May.

Q. And how many brothers did you have? A. One.

Q. How many sisters? A. One that I saw. There were two, I believe, died in infancy.

Q. And your father's business was what? A. Grocer.

Q. When did they die? A. I don't know that I could tell you the date.

Q. How old were you? A. I think I was somewheres between fourteen and fifteen; I couldn't tell you for certain.

Q. And your sister Annie was older or younger? A. No, sir; she was younger.

Q. How much younger? A. Nearly five years.

Q. Your brother older? A. Yes, sir.

Q. Where is your brother now? A. I suppose he is in Janesville, Wisconsin, for all I know.

Q. When did he come to America, — how long before you? A. I couldn't tell you how many years ago it was; it was only a short time before my father and mother died that he come.

Q. He came before they died? A. Yes, sir.

Q. And you and your sister came when? A. After they died.

Q. How soon after they died? A. Mother died in December, and

father died in the following June, and we come to my brother in September.

Q. And you came here in company with whom? A. My sister.

Q. Anybody else? A. Well, I think that my brother had given us in care of the captain; that is my understanding about it; we come in his care.

Q. Do you know the season of the year that you arrived here? A. I do, sir.

Q. What time? A. The twenty-third day of September.

Q. Did you meet your brother? A. Yes, sir; we met here in Boston.

Q. And from thence where did you go? A. He brought us to his house.

Q. Where did he live? A. He lived I think in—I think the name of the street is Foster Street; it is a short street and runs parallel with—

Q. In what city or town? A. In Cambridge, beyond the colleges.

Q. Whether or not you had learned the trade of milliner or dress-maker before you came here? A. Yes, sir; I had.

Q. And after you came here what did you do? A. I went out as seamstress.

Q. Making your home where? A. At my brother's.

Q. Where did your sister live? A. My sister lived with my brother, went to school.

Q. How long did she go to school? A. I am sure I couldn't tell you how old she was when she left school.

Q. You didn't go to school after you came here? A. No, sir; I did not.

Q. When were you married? A. I was married—I was twenty, and I was married the following July. I shall be thirty years married next July.

Q. You were twenty years old when you were married? A. Yes, sir.

Q. Where were you living then, when you were married? A. When I was married—

Q. You were living with your brother, were you? A. No, sir; my brother had moved West when I was married.

Q. He had gone West? A. Yes, sir.

Q. Where were you making your home? A. If my recollection serves me right I was at Mrs. Proctor's.

Q. In Cambridge? A. Yes, sir; on Inman Street.

Q. How long an acquaintance did you have with your husband before you were married? A. I think we were engaged to be married a little over a year, perhaps two years.

Q. Where did you become acquainted with him? A. At the Baptist Church in Old Cambridge.

Q. And after your marriage where did you live? A. We went to Sherborn.

Q. Sherborn? A. Yes, sir; to my husband's father's.

Q. Board or keep house? A. Boarded there.

Q. What did your husband do? A. He worked for a Mr. Erastus Ware, a wheelwright.

Q. How long did you live there? A. I think we moved from there the following April.

Q. In the meantime where was Annie living? A. At that time she was living with a Mrs. Mason in Natick, taking care of a baby.

Q. Well, when was she married, how soon after you were married? A. I don't know as I could tell you; the first time Annie was married was, I think, perhaps twenty-two years ago; I couldn't tell you the dates, Mr. Crane.

Q. Whom did she marry? A. A Mr. McCormick.

Q. What was his business? A. He was a carpenter.

Q. Where did they live after their marriage? A. In South Boston.

Q. Did they have any children? A. Yes, sir.

Q. Alive? A. No, sir; they are not.

Q. When did they die? A. They died before their father did, both of them.

Q. How many did they have? A. Two.

Q. Died in infancy? A. Yes, sir.

Q. After your sister became a widow where did she go to live? A. She came to our house.

Q. Where were you living then? A. We were living then in Chelsea.

Q. You moved from Sherborn, or Shirley, to where? A. We moved from Sherborn to Framingham.

Q. What was your husband's business there? A. He worked there at the same business for a man by the name of Lumbard.

Q. When was your first child born? A. Three years and a half after we were married.

Q. Who was the first? A. Lizzie.

Q. Where was she born? A. Born in Charlestown.

Q. When Lizzie was born where did Annie live? A. She lived with me.

Q. Lived with you? A. Yes, sir.

Q. And how long did she make it her home with you after she became a widow, before her second marriage? A. I suppose my home was always her home. She of course didn't stay there; she

had to earn her living, but she always called my house her home, kept her clothes there, come there Sundays; she came there very often, though she lived most of the time with the Rev. Mr. Bates.

Q. How long did she live with the Rev. Mr. Bates? A. I don't know; she lived with him most all the time they were in Chelsea, and when they went to South Boston she moved with them and stayed there just a short time.

Q. Was she living with Mr. Bates when she was married the second time? A. No, sir; she had left and come home.

Q. Came home where? A. Home to my house.

Q. Where was she married? A. She was married in South Boston.

Q. By whom? A. By the Rev. Mr. Bates.

Q. Were you present? A. Yes, sir; I was.

Q. Where did they go to live after their marriage? A. They went to Mr. Freeman's mother's.

Q. Where? A. I think she lived on — well, sir, I don't remember the name of the street where it was, Walnut or what; I don't remember the name of the street she lived on.

Q. Where did Mr. Freeman live when their first child was born? A. In South Boston.

Q. And who was the first? A. Thomas Arthur.

Q. They had but two children during their marriage? A. That is all.

Q. And how many have you had? A. I have had eight.

Q. Which was the first? Lizzie was the first? A. Yes, sir.

Q. Then who was the next? A. Willie.

Q. Then the next? A. Two little girls.

Q. Twins? A. Yes, sir.

Q. How long did they live? A. Eight months and sixteen days.

Q. Did they die at the same time? A. Yes, sir; one died this week, and the other one the next.

Q. And where were you living when the twins were born? A. In Cambridge.

Q. In Cambridge? A. Yes, sir.

Q. What was your husband's business up to the time of his death? A. Up to the time of his death he was a carpenter.

Q. When did he die? A. He died in 1882, the twenty-third day of July.

Q. Where were you living then? A. 183 Brookline Street, Cambridgeport.

Q. Your family consisted of whom? A. Lizzie, Willie, Charlie, Emma May and Gracie and myself.

Q. And after your husband died how did you support your family,

if at all? A. Willie was working, and I can't remember whether — I don't think Lizzie ever had worked until her father died, I don't remember that she did, but she might have; I can't say for certain.

Q. Was Charlie at work? A. No, sir; Charlie was a little fellow.

Q. What say? A. Charlie was quite small; he was at school.

Q. And did you keep your children at school until a certain age? Charlie went to school? A. Yes, sir; he went to school until — I think that Charlie left school the latter part of 1883 or the early part of 1884.

Q. Where did he go to work when he left school? A. That I couldn't tell you; I think it was in to Cupples and Upham's, corner of Washington and School Streets.

Q. And where was Willie working? A. He was working for Mr. Holmes.

Q. He is a man that keeps a store in Cambridge? A. Yes, sir.

Q. How long did he work there? A. He worked there before his father died, and the last day his aunty was buried, — that was the last day he worked for Mr. Holmes.

Q. Where did he work then? A. He went to work on the railroad.

Q. In what capacity? A. He went as a conductor.

Q. Where were you working the week prior to your sister's sickness? A. I was working at R. H. White's.

Q. How long had you been working there? A. I couldn't tell you.

Q. Doing what? A. I was doing dress-making.

Q. Who was doing the housework? A. Lizzie.

Q. Was Willie at work then? A. Yes, sir.

Q. And Charlie? A. Yes, sir.

Q. Where were you when you received word that your sister was sick? A. The first account I had of her sickness, I was at home, — I got a postal card when I came home on a Friday evening that my sister was sick.

Q. Friday evening? A. Yes, sir.

Q. What were you doing when you received word? What had you been doing that day? A. I had been at R. H. White's working, and when I came in the door the postal card was handed to me.

Q. You were dress-making at White's? A. Yes, sir.

Q. Now, when you got home you received the postal? A. Yes, sir.

Q. What day was that? A. It was on Friday.

Q. What did you do in answer to the postal? A. I told the lady downstairs that I must go to my sister, and I went, — and I turned right round and took the next car and went over to South Boston.

Q. From where? A. From Hughes Street.

Q. Leaving Lizzie at home? A. No, sir.

Q. Was Lizzie at home? A. No, sir; Lizzie was out at Bertha Gardner's.

Q. Where did the Gardners live then? A. I think they lived in South Weymouth, but I wouldn't be quite sure about that.

Q. You took the car that night, you say, and went over?
A. Yes, sir.

Q. Where did your sister live? A. On F Street, South Boston.

Q. Whom did you see when you got over there? A. A nurse.

Q. Who was the nurse? A. I couldn't tell you.

Q. Then whom did you see? A. I saw my sister.

Q. Where was she? A. She was in bed.

Q. How soon did you see Mr. Freeman? A. I don't recollect of seeing Mr. Freeman that evening, for I didn't stay but a very short time.

Q. Why didn't you stay? A. Why, I couldn't stay; I had to get home.

Q. Why? A. I had to go to work the next morning.

Q. Then you went home? A. Yes, sir.

Q. Then what did you do? You saw your sister? A. Yes, sir.

Q. How was your sister then? A. Well, I thought she was very sick, but I thought I had seen her often as sick before; but I thought she was a very sick woman.

Q. What physician did she have? A. I didn't know anything about what physician she had then; I don't know as I made any inquiries on Friday.

Q. You saw her there sick? A. I saw my sister there sick.

Q. You went home. What did you do then, the next day? A. I went to work as usual.

Q. Well, then what occurred? A. Well, my sister had asked me to take the children with me that night.

Q. What say? A. My sister had asked me to take the children home with me on Friday night. I told her that I couldn't, that there was no one to take care of them on Saturday, but I would send for them. I went to work that Saturday, and after I got home Lizzie had got home and Bertha Gardner, and she went for the baby, and brought the baby over. On Sunday I wanted to go over, but Lizzie and Willie objected to my going for fear that I should take the pneumonia from my sister.

Q. You say that on Saturday Lizzie and Bertha Gardner had gone over and got the baby? A. Yes, sir; Saturday evening after I had got home from work.

Q. Then what occurred? What did you do Saturday evening? Did you see your sister Saturday? A. No, sir; I did not.

Q. When did you see her? A. I wanted to go, as I stated, on Sunday, and they objected to my going.

Q. Who objected? A. Willie and Lizzie and Dr. Church, who was in to see the baby.

Q. Was the baby sick? A. I think, if I remember rightly, she had a spasm. I think Bertha Gardner, perhaps, would remember that better than me, for she took charge of the baby.

Q. Now what more did you hear from your sister,— what next did you hear from your sister? A. Willie went over on Sunday and saw her and brought Arthur home with him.

Q. Brought Arthur over with him Sunday? A. Yes, sir.

Q. Then what occurred? A. Well, I went to work Monday as usual.

Q. When did you go over again? A. My brother, Prince Arthur Freeman, come to the store for me.

Q. What time on Monday? A. If my recollection—to the best of my recollection it was between three and four o'clock in the afternoon.

Q. On Monday? A. On Monday; I wouldn't like to^e say the exact hour.

Q. Both the children were at the house? A. They were at my house; yes.

Q. How soon did you go over? Did Mr. Freeman call himself? A. Mr. Freeman called himself for me at the store.

Q. Well, now, what did you do? Did you have a conversation with him about your sister? A. Yes, sir; I went down to the office and saw him.

Q. In consequence of that conversation what did you do? A. I went to the manager of the store, the room, and asked him for leave of absence to go to see my sister, and he gave it to me.

Q. How quick did you go? A. Just as quick as I could get my things on and get started.

Q. Did you accompany Mr. Freeman over? A. Yes, sir; I did.

Q. What time did you get to South Boston? A. I don't know; I wouldn't say what hour it was; it was along in the afternoon, towards dark.

Q. You went over with Mr. Freeman? A. With Mr. Freeman.

Q. Whom did you see first after getting there? A. The nurse.

Q. And what condition did you find your sister in? A. I didn't think she had changed any from what I saw her on Friday; I couldn't see any change.

Q. From Friday till Monday? A. From Friday.

Q. Well, then what was done? A. I asked the nurse what the doctor said in regard to my sister, and she said that he told her in the morning —

Q. Leave out what the nurse said. Perhaps they won't allow you to put that in. You found your sister about the same? A. As I thought.

Q. Then what was done with the nurse? Did she remain there? A. She remained there that night.

Q. Monday night? A. Yes, sir.

Q. Then what occurred? A. Well, when I first went there and talked with her I inquired where the doctor lived, and I wanted to talk with him, and I went and saw the doctor.

Q. What doctor? A. Dr. Davison of South Boston.

Q. And what day was that? A. That was on Monday.

Q. Who went with you? A. Mrs. Wright.

Q. Who was she? A. I never had met her before that I know of, before that evening.

Q. Was she the lady who testified here? A. I suppose she was; she lived downstairs.

Q. You saw a lady by the name of Wright testify? A. Yes, sir.

Q. Was she the one? A. I think so.

Q. You went and saw Dr. Davison where? A. At his office.

Q. For what purpose? A. To find out what he thought about my sister's condition.

Q. Did you talk with him about it? A. Yes, sir.

Q. Then what did you do? A. Well, through the advice that he gave me I went back to my sister's. I asked her if she would like to have me stay with her. She said, "Sarah, you know I would, but you would be down sick if you stayed." And I said, "No, Annie; I sha'n't leave you again." And I stayed with her.

Q. How long did the nurse stay? A. The nurse stayed until the next day.

Q. And then she left? A. Mr. Freeman told her to leave. Mr. Freeman told her that I was going to remain with my sister, and paid her off, and she went away.

Q. You stayed with your sister; and who took care of her Monday night? A. I think that I did.

Q. How was Tuesday? A. I think that somebody from the church was there to watch with her every night,— to watch with her. I won't be quite sure of that,— whether I was there one or two nights alone. but I remember they were very kind in coming every night to watch with my sister.

Q. When did your sister die? A. The twenty-sixth day of February, ten minutes past one o'clock.

Q. What day of the week was that? A. That was on Thursday.

Q. That was the second day after you went there, — you went there on Monday? A. I went there on Monday.

Q. And she died Thursday? A. Yes, sir.

Q. Who were there when she died? Did you see Mrs. Marshall there? A. Mrs. Marshall was there; but I don't remember of any one else being with me there at the time of her death but Mrs. Marshall.

Q. How frequently did the doctor call to see your sister? A. Well, I think that he was there two and three times a day.

Q. Did you have any talk with him about her? A. Yes, sir; and the church folks wanted another physician, but she would not have one.

Q. Who were the church folks? A. I can't remember whether it was Mr. Crawford, — but I think he suggested it, — and several of them that called, but my sister wouldn't have any one but Dr. Davison.

Q. She died on Thursday? A. Yes, sir.

Q. What did you do? How long did you remain there after she died? A. Until she was buried.

Q. When was she buried? A. She was buried on Saturday.

Q. The little children were still remaining over at your house? A. Lizzie had brought the children over to the house for the funeral. She brought them over to see their mother, — and they were with us then; and when she died I sent for Lizzie and she came over with the children.

Q. Were they brought to the house before your sister died? A. No, sir.

Q. Afterward? A. After.

Q. What was said by your sister about the baby? A. Well, what do you mean?

Q. What disposition — what did she want done with the baby? A. Well, the baby she gave to Lizzie; she wanted Lizzie to keep the baby.

Q. When was that? A. That was the Friday night when Lizzie took the baby away; she gave her the child, she told Lizzie she knew she would not get well and she wanted her to keep the baby, and Lizzie promised her she would.

Q. What day was that? A. That was on Friday.

Q. (By FIELD, J.) Did you hear that? A. Sir?

Q. Were you present? A. No, sir; I was not. I would say on Saturday — Saturday. No, sir; I was not. Bertha Gardner, I think, was.

Q. (By Mr. CRANE.) Did you have any conversation with your

sister in reference to the baby being given to Lizzie? A. Well, I don't know as I can connect the conversation that we had about the children. She wanted I should promise her to keep the children, and I wouldn't. I told her I couldn't promise her that. I told her I should always keep Arthur, but I couldn't keep the baby. And then she gave the baby to Lizzie. I told her I should keep Arthur anyhow.

Q. At the first interview you had with your sister what was her condition then? A. Well, she was very, very sick.

Q. And what were her complaints? A. Well, I don't know; she coughed, and her breathing was very short, and very hoarse, and it appeared to me as though she was all wheezed up; and I asked her if she was not bloated, and she said she didn't think she was. I don't know as I could explain anything more than that.

Q. Now, what were your relations with your sister from the time you came to America until she died? A. Why, I think our relations were as any sisters' should be.

Q. Well, what were they? A. Well, I think they were good. I loved her very much, and I know she did me.

Q. How frequently did you meet each other, see each other? A. Well, when they lived in South Boston we saw each other—I don't think there was more than two weeks at any time that we didn't see each other.

Q. Where? A. Sometimes I was at her house, and sometimes she was at mine; more frequently she was at mine.

Q. Did she come over Sundays? A. Yes, sir; she and her husband and the children would come over Sunday and stay all day when it was pleasant.

Q. Were you in the habit of making diaries daily and reading them? A. Yes, sir.

Q. State how that was done? A. Well, if there was any little thing occurred through the day that we wanted each other to know we noted it down, and when we saw each other we showed it to each other, and if we didn't happen to see each other in season we would send a letter. I would send a letter to her, and she to me. I received a letter from her every week—

Q. What say? A. I received a letter from her, I am safe to say, every week, and she from me every week.

Q. How long a time did that cover before her death? A. Well, I think it always was when she was away from me.

Q. Did you go to church together to any place? A. When we lived in Chelsea.

Q. Where did you attend? A. We attended the Bellingham Methodist Episcopal Church.

Q. Who was the pastor? A. The Rev. J. O. Knowles was the pastor, and the Rev. L. D. Bates come after he did, I think, and when he left I think it was the Rev. Mr. Whitaker,— I think it was.

Q. Did you attend meetings together? A. Yes, sir; and class meetings. We were not married at this time.

Q. Did you and your sister attend class meetings together? A. We did; we belonged to the one class.

Q. How frequently did you attend? A. We tried to get there once a week.

Q. Go together? A. Yes, sir.

Q. And up to the time that your sister died whether or not your relations were — A. Just the same as they had always been.

Q. Were there ever any differences between you and your sister? A. No, sir; there never were.

Q. Who rode in the carriage with you to the funeral? A. To what funeral?

Q. Of Mrs. Freeman, your sister? Who went in the carriage? Where was she buried? A. She was buried in my lot in Garden Cemetery in Chelsea.

Q. And where was the funeral held? A. The funeral was held in the church on Broadway in South Boston.

Q. Who conducted the funeral? A. The Rev. Mr. Crawford and the Rev. Mr. Bates; they were both there.

Q. Now, who went with you in the carriage from the house? A. Mr. Freeman and Arthur, Lizzie, and Willie, and myself.

Q. And who returned from the church, or from the burial? Did the same return? A. The same returned; yes, sir.

Q. Did Belle Clough go in the carriage? A. She went in some carriage.

Q. Did she go in yours? A. No, sir.

Q. Did she go with you from the house to the church? A. No, sir; we went from the house to the church the same as we left the church.

Q. She was not in the carriage with you? A. No, sir; she was not in the carriage with me that day.

Q. Well, was there anything said that day, on the day of your sister's burial, about insurance? A. No, sir; I don't think I was in any condition to talk about insurance.

Q. Nothing was said about it? A. No, sir; not in my hearing.

Q. When was the first talk about Mr. Freeman coming to your house to live in case your sister died? A. Well, the first talk that was about it was at my own house, — talked about the children with my children; what was going to be done with them if anything happened to my sister.

Q. Well, what conversation did you have with Mr. Freeman at any time about coming there? A. I am quite sure it was on Tuesday evening previous to my sister's death.

Q. Now, what was said? A. She called me to her and asked me where —

Q. A little louder. A. She called me to her and asked me where Prince was, her husband, — that was what she said, that she wanted him. I called him. He was in the kitchen, and we both — I think I was sitting at her bed, and he stood for probably three or four minutes before she said anything, and then she said to him, "I want Sarah to have the control of the children. Have you any objections?" He said, "None at all." He made the reply then that he didn't know where else they could go.

Q. Said what? A. Said he didn't know of any other place for them to go. His father was very sick at the time, not able to come to my sister's funeral, and there was no other place for the children to be but at my house —

Q. Well, what — A. Mr. Freeman said that he never would give up the baby. He said he would never give up the baby, but Arthur he should never take from me.

Q. Well, what was said, if anything, about where Mr. Freeman was going? A. I don't think that my sister said anything until he made the remark. He said, "Annie, where am I to go?"

Q. What did she say? A. She said, "With the children, if Sarah wants you." That was her reply.

Q. How soon after your sister was buried did he come over to your house? A. That night.

Q. That night? A. That night.

Q. Did he go with you? A. With Willie and I.

Q. Did you hear Mrs. Wright's testimony in reference to you coming out of the room, or he coming out of the room, and he said, "Where am I to go?" and you said something about that he was not half baked, or something to that effect? A. I don't think I ever used the expression to any one.

Q. Do you remember anything of that kind? A. No, sir; I do not.

Q. Did you hear Mrs. Barker's testimony? You heard her testimony here yesterday, didn't you? A. I don't know Mrs. Barker, so that I don't know what you have reference to.

Q. Well, with reference to consulting with her about where the children should go? A. Well, I have no recollection of speaking to any one besides Mrs. Marshall and Mrs. Bonds about it. I may have, but I have no recollection. Every one that called there were entire strangers to me, with the exception of those two.

Q. Well, what did you say, if anything, to any of these persons about using their influence to have Mr. Freeman come to your house?

A. I think that I have said to Mrs. Marshall for her to talk to him about it, and I may have said so to Mrs. Bonds, but I don't think that I ever did to a stranger, because I wouldn't be likely to. I don't remember of it, but I didn't want him and the children separated.

Q. Did you ever say anything about it in the presence of Belle Clough? A. No, sir; I did not, because I didn't see Belle until after Mr. Freeman was at my house, until on the day of the funeral, that was all.

Q. Did you have any talk with her on the day of the funeral about that? A. No, sir; I did not.

Q. Now, he came to your house that day or the next day? A. He came right from the funeral to my house.

Q. Where did he commence to work? A. At that time he was working in some foundry in South Boston, I can't tell you where; I never knew.

Q. And how long did he continue to work there? A. I think it was burned down the week after his wife was buried.

Q. Do you know what company that was? A. No, sir; I do not.

Q. And then what did he do? A. He didn't do anything for some time, for he could get nothing to do.

Q. Then where did he go? A. He went to Mount Auburn to work.

Q. And then he went back to South Boston, did he? A. Yes, sir.

Q. The place where he was when he died? A. Yes, sir.

Q. Do you know when he went there? A. Did you ask me if I knew when he went?

Q. Yes; when he went to the Norway. A. I think he went in May.

Q. What time did he leave your house in the morning generally? A. I couldn't tell you, Mr. Crane. I never was up when Mr. Freeman went away in the mornings.

Q. Before you got up? A. Yes, sir.

Q. Did he carry his dinner, or would he get it? A. Sometimes he did and sometimes he did not.

Q. Was he generally home at supper? A. He was always home at supper.

Q. Where would he spend his evenings? A. When he was in the house, you mean?

Q. Yes. A. Well, wherever the rest of the family was.

Q. How much of the time was he in the house at your home evenings? A. Well, he was the most of his time there.

Q. What say? A. He was the most of his time at home. He went to evening meetings or at the Colony meetings, and those were the only times he was from home, except twice, I think, when he was at his mother's.

Q. Did he go to church? A. Yes, sir.

Q. Do you know where he went? A. I think he went to North Avenue. He and I went to South Boston once or twice, I think. I went once with him, and he went there once alone, and I have known of him going to Boston to church, but where I don't know.

Q. Did you go to church with him? A. I don't think that I did, more than once or twice.

Q. Did the boys, Willie or Charlie, go with him? A. Charlie was the one that went with him most. Willie and his uncle were not very sociable with each other.

Q. Now, when did you first hear of any complaints on his part of not being well, — how long before he was taken sick? A. Well, I don't know, Mr. Crane, as I could tell you.

Q. As near as you can. A. He complained of having a sore throat for quite a while, from the first of his going to this place in South Boston to work, but I didn't think it amounted to much, and I didn't take much notice of it anyway.

Q. When did you first hear of his sickness? A. Of his last sickness?

Q. Yes. A. On Monday afternoon when he come home.

Q. Do you know where he was Sunday before? A. He was at home in the forenoon, but where he was in the afternoon I don't know. Charlie and he went to some place.

Q. Do you know what time they got home? A. I do not, for I had taken Gracie and Arthur — I had promised to take them to the Public Gardens.

Q. What say? A. I had taken Gracie and Arthur to the Public Gardens, so when they got home I don't know; what time he got home; I was not at home.

Q. What condition was he in when he got home? A. I was not there.

Q. You weren't at home when he got home? A. No, sir.

Q. What time did you see him? A. I can't tell whether I saw him that night. He and Charlie went to the church in the evening, or said they did.

Q. That was Sunday night. But when he came home from his work, — when did you see him after that? A. Monday afternoon.

Q. Did you see him? A. Yes, sir; I let him in.

Q. Did you see him Sunday night before he went to bed? A. No, sir; I don't think I did.

Q. Now, Monday he came home in the afternoon? A. Yes, sir.

Q. In what condition? A. Well, he appeared to be very sick.

Q. What did he say? A. Do you want me to tell just the words he said when I opened the door?

Q. Yes. A. I said to him, "Why, what are you home for?" He said, "Sarah, I am very sick; I have done my last day's work." Those were the very words that he used.

Q. That was what time in the afternoon? A. Well, it was after three o'clock.

Q. Who were at the house? A. I don't think there was anybody there but Dr. Beers; I think he was there.

Q. Was Dr. Beers there? A. Yes, sir.

Q. When he came home? A. Yes, sir.

Q. Well, then what occurred? How soon did you send for a physician, if at all? A. I think it was seven o'clock.

Q. Seven o'clock? A. Well, I won't make the hour certain, but about seven o'clock.

Q. At whose suggestion? A. I wanted to send for one before that, but he wouldn't hear of it. At Lizzie's, the doctor come.

Q. What say? A. At Lizzie's and mine, both.

Q. To whom did you send? A. Mr. Freeman wanted Dr. Driver. Dr. Driver was not in, and Lizzie went on her own account for Dr. Nichols.

Q. Who is Dr. Driver? A. He is a physician in Cambridge that attended his baby when he was sick. It is the only time that I ever had him in my family. I don't know anything about him.

Q. He wanted Dr. Driver? A. Yes, sir.

Q. Did you send for him? A. Afterwards?

Q. Did you send for Dr. Driver? A. Yes, sir; Lizzie went for Dr. Driver, and he was not in; and Dr. Nichols lives next house, and she went in there and had Dr. Nichols come.

Q. What time did Dr. Nichols come? A. Right as soon as Lizzie went for him.

Q. Were you present when Dr. Nichols came? A. I think I was.

Q. What did he do? A. What did Dr. Nichols do?

Q. Yes. A. He talked with him, felt his pulse, I think, and that was about all.

Q. Prescribed for him? A. Yes, sir.

Q. Do you know anything what the prescription was? A. No, sir; I do not.

Q. Who got it filled? A. Lizzie.

Q. Did he write out the prescription in the room? A. Yes, sir.

Q. And gave it to Lizzie? A. I don't know whether he gave it to Lizzie, or left it on the table — I cannot say; I could not tell you.

Q. And Lizzie went to the druggist? A. Lizzie went to the drug store and got it filled.

Q. Were you there when it came back? A. I suppose I was — I don't know. I didn't leave the house that night, so I suppose I was there.

Q. Who gave him medicine that night? A. When it first came in I think I did.

Q. When the prescription first came in? A. Yes, sir.

Q. And who stayed with Mr. Freeman that night? A. Well, I had an impression, and have it still, that Charlie slept with him that night; that nobody watched with him; that he didn't want anybody to sit up.

Q. Did you see him the next morning? A. Yes, sir.

Q. How was he then? A. I did not notice that there was much change; I couldn't see much change.

Q. When did the doctor call again? A. The doctor called about ten o'clock, I think, in the morning.

Q. Did you send for him? A. No, sir.

Q. He came? A. Yes, sir.

Q. What did he do? A. I don't remember whether he prescribed anything differently, or not; I have forgotten about that; I know he told me what to do for him.

Q. What did you do for him? A. Just whatever he told me; I have forgotten now; he told me about his nourishment and about his medicine. I done whatever he told me; I couldn't tell you now.

Q. Did you give him medicine the doctor told you? A. Yes, sir.

Q. Who stayed with him Tuesday night? A. Lizzie did.

Q. And Wednesday what occurred? A. I think that his mother came over on Wednesday.

Q. How came she to come over? A. I had sent for her.

Q. You sent for her? A. Yes, sir.

Q. How did you send? A. I sent, I think, a postal card; at least I think I asked Lizzie to write a postal card, and I think it was a postal card that she wrote.

Q. Do you know what the purport of that was? A. No, sir, I could not tell you; it was to tell her that he was sick.

Q. How did you find out her address? A. Why, of course, we always knew her address — always knew where she lived.

Q. You sent for her on Wednesday? A. No, sir, she came on Wednesday; I think she was sent for on Tuesday.

Q. Do you know at whose suggestion you sent for his mother? A. Probably it was mine; I could not tell you.

Q. Did his mother come? A. She did as soon as she got the message that he was sick.

Q. She came on Wednesday? A. Yes, sir.

Q. How long did she stay? A. I think she stayed until after supper, perhaps; I could not tell you how long she did stay; she stayed as long as she could stay.

Q. Then what occurred? A. I promised her that she should hear every day how he was, and I think Lizzie wrote her a postal to let her know how he was.

Q. Then when did the mother come again, if at all? A. I think on Friday.

Q. When did the sister come? A. I think on Friday.

Q. Come together? A. I think they did.

Q. Who took care of Mr. Freeman Thursday night? A. I don't know whether there was any one who took care of him or not; I couldn't tell you whether there was anybody, with the exception of Lizzie and Willie. I didn't sit up with him nights, for I was not very well, and I never sat up any night, but I think it was Lizzie. I think that Lizzie took charge of him Thursday night, but I would not be certain about that.

Q. Was Dr. Davison called? A. Dr. Davison was called, yes, sir, and Dr. Driver.

Q. When was Dr. Driver called? A. I think he was called on Wednesday.

Q. At whose suggestion? A. I couldn't tell you whether it was at mine or Dr. Nichols's; I don't remember whether it was Dr. Nichols spoke of it, or I spoke of it; I could not tell.

Q. Did they meet there? A. Yes, sir, they did. He came with Dr. Nichols.

Q. Were you present when they examined him? A. I think not.

Q. Was Dr. Davison called? A. Yes, sir, he was.

Q. What day was he called? A. I think that he come on Friday.

Q. How came Davison to come? A. Well, I asked Dr. Nichols if he would meet him there, and he said he would.

Q. Did they all three meet there? A. No, sir — Dr. Nichols and Dr. Davison.

Q. Why did you send for Dr. Davison? A. Because he had been the family physician in South Boston — he had been my sister's physician, and I knew they thought a great deal of him.

Q. What? A. I knew that my brother thought a great deal of him.

Q. What was the occasion of sending for anybody else? You had Dr. Nichols. A. Well, Dr. Nichols had not told me what ailed him, and I wanted to find out.

Q. After Dr. Driver came in consultation with Dr. Nichols, did

they tell you then what ailed him? A. Not the first time that he come.

Q. Well, the second or third? A. On Saturday evening they told me.

Q. What did they say? A. They had a consultation on Saturday evening.

Q. Who were present? A. Dr. Driver and Dr. Nichols. And when they talked together alone Dr. Nichols come out and called me into the room where they were. He said, "Mrs. Robinson, Mr. Freeman has failed rapidly since morning and I don't think he can live through the night." I think I asked him what ailed him. His reply to me was, "Mrs. Robinson, I cannot lay my finger on a diseased part in his body. The man has had a great deal of trouble; his vitality is gone; he wants to die and he has lain down to die."

Q. Who said that? A. Dr. Nichols.

Q. In the presence of whom? A. In the presence of Dr. Driver; them are his words.

Q. Now did you at any time, in the presence of either of these doctors, examine his clothing — his night-shirt? A. I think that he himself — Mr. Freeman — I think that he made the remark to Dr. Nichols about the wristbands of his night-shirt had been stained like iron-rust.

Q. What about the sheet? A. The sheets where he lay on them were stained; it was kind of reddish — I don't know what you would call it.

Q. What did the doctor say about it? A. I don't know as he said much about it anyway. When they were washed they fell out in little pinholes, and I showed them to the doctor. I don't think he thought much about it — I don't know.

Q. What day did Mr. Freeman die? A. He died, I always thought, on the 28th; they say the 27th. He died ten minutes past twelve o'clock on Saturday night, the 27th.

Q. Who were present when he died? A. Dr. Nichols, Mr. Foster, Lizzie and myself.

Q. How came Mr. Foster there? A. I sent for him.

Q. Why? A. Because Mr. Freeman was so very sick, and I did not want to be alone.

Q. When was he buried? A. On Tuesday afternoon.

Q. Where? A. In Garden Cemetery.

Q. And what undertaker? A. I can't think of his name just now. [Pausing.] He is quite an old gentleman; he was on the stand yesterday. I can't think of his name — Wyeth — Mr. Wyeth.

Q. Did you attend the funeral? A. Yes, sir.

Q. How were you for the two or three days before he died? How

was your health? A. Well, I don't know as my health was any different two or three days before he died than it was for two or three weeks. I was not feeling very well.

Q. At any time did Dr. Davison prescribe for you? A. I can't remember that he did just before his sickness; he did after it. I was very sick after Mr. Freeman died.

Q. How long after he died were you sick? A. The 3d of July I was taken very sick.

Q. How long were you sick? A. Well, I think that Dr. Nichols made his last visit with me [pausing] — on the 8th.

Q. 8th of July? A. I think so.

Q. The children were with you then — the baby and Thomas Arthur? A. Not when Mr. Freeman died, they were not.

Q. Where were they? A. The baby was dead.

Q. When did the baby die? A. Either five weeks or seven weeks after her mother, and I cannot remember which it was.

Q. Who attended the funeral of the baby? A. You mean what undertaker?

Q. What minister? A. Rev. Mr. Crawford from South Boston.

Q. And what undertaker? A. Mr. Cole, on Dorchester Street, South Boston.

Q. How old was the baby? A. I don't know; I don't think I could tell you how old the baby was.

Q. About how old? A. About a year, I think; it was a nursing baby when my sister died.

Q. How was the baby after it was taken over to your house — taken away from its mother? A. I have an impression that she had a spasm the same night that she went there or the next night. She had spasms.

Q. Now, Mrs. Robinson, you know Dr. Beers — Charles C. Beers? A. Yes, sir.

Q. When did you become acquainted with him? A. Well, it is a good many years ago; I don't know as I can date back. It is a good many years ago.

Q. Before your marriage to Mr. Robinson? A. Yes, sir.

Q. Where was he then? A. He was in Boston.

Q. What was his business? A. I don't know; he said he was a doctor.

Q. And then after your marriage with Mr. Robinson, whether you lost sight of him then? A. I did for a time.

Q. When did you see him again? A. I couldn't tell you in what year it was.

Q. The first time you saw him after your husband died? A. I saw him in 1884.

Q. Where did you first meet him? A. The first time I met him in 1884 was in the horse-cars, I think; the first time that I was speaking to him in 1884 was in the horse-cars going from Allston to Boston.

Q. Did he recognize you, or you him, or both? A. Both did, I think.

Q. Did you know then where his office was? A. Well, some time after that I did.

Q. Where did you find it to be? A. The first office that I knew of him having after that was on Milk Street.

Q. Where was his next? A. The next was at 41 Appleton Street.

Q. Boston? A. Yes, sir.

Q. Where was the next? A. The next was in Park Square.

Q. Where was the next? A. Corner of Tremont and Eliot.

Q. Which of those offices did you ever visit? A. I visited three of them; I was once or twice — I think I was twice at the office on Milk Street; I was at the office on Park Square and I was at the office on the corner of Tremont and Eliot Streets.

Q. How frequently did you call? How soon after the renewal of this acquaintance did he commence to call at your house? A. Well, I don't know just what time it was; it was a few weeks, perhaps a month, perhaps more — I don't know just the time.

Q. How frequently did he call at your house about the time your sister was taken sick? A. He didn't come so often then, for I was not at home during the day.

Q. Where did you see him? A. I saw him in Boston very often.

Q. When he first commenced to come to your house after this acquaintance was renewed, how frequently did he call during the first two or three months? A. While he lived in Allston he called in the morning at eight o'clock before going into Boston, and come out on the four o'clock car in the afternoon — stayed till about six every day.

Q. For how long a time? A. Until I went into Boston to work.

Q. How long a time would that be? A. I think I went in — well, it was after Emma May's death that I went in; I couldn't tell you when it was. Emma May died in September of that year, and it was some time after that.

Q. How frequently did he call after you got through working there — when you were at home? A. Well, when I lived on Boylston Street he called almost every afternoon.

Q. How long would he stay? A. Oh, sometimes longer and sometimes shorter; sometimes all the afternoon, and sometimes not so long.

Q. Would he come Sundays? A. Sometimes, yes, sir.

Q. Evenings? A. Well, I don't think he come very many evenings when I was on Boylston Street — not more than two or three, I don't think — I don't remember.

Q. How frequently did he call after Mr. Freeman came to your house? A. Well, every afternoon.

Q. What say? A. 'Most every afternoon when I was at home.

Q. How long did he stay? A. I couldn't tell you.

Q. Did you know who he was? A. I knew he was Dr. Beers — Dr. C. C. Beers.

Q. What did he represent as to his being married or single? A. Why, he said he was a widower.

Q. Whether he was paying his addresses to you? A. Yes, sir.

Q. And for how long a time? A. From 1884.

Q. Up to what time? A. Until 1886.

Q. Whether he proposed marriage to you? A. A good many times.

Q. Did you accept his proposition? A. No, sir.

Q. How many times was that matter discussed? A. I couldn't tell you.

Q. In the presence of whom? A. Well, I don't know as it ever was in the presence of any one excepting Lizzie; I couldn't tell you.

Q. Did you hear Belle Clough testify the other day? A. I heard some things, some I did not.

Q. Did you hear anything said by her or by — in reference to —

Mr. STEVENS. I object to this conversation between her and Dr. Beers.

Mr. GOODRICH. We propose to locate in the family, substantially, of the prisoner, a person calling himself a practising physician, Dr. Beers. He was paying his addresses to the prisoner, and proposed to become her husband and the head of the house. The constant presence of that man in the family during the time of the sickness and for some time previous, and after that, of Mrs. Freeman and of Mr. Freeman, we submit, is competent evidence to go to the jury upon the question whether there were other persons in the house who had means, opportunity or a possible motive for the commission of this homicide, if such there was.

FIELD, J. We have no doubt that the fact of his being there at the time of the illness of either Mrs. Freeman or Mr. Freeman is competent evidence. We have no doubt that his general relations to Mr. Freeman and Mrs. Freeman can be shown in evidence, and I suppose that under some circumstances his relations to Mrs. Robinson in reference to her relations with them and in reference to Dr. Beers's relations with them might be competent. For instance, if it was shown that Mr. Freeman and Mrs. Robinson were attentive to

each other, and it was shown that Dr. Beers was jealous of Mr. Freeman, there might be a state of facts in which Beers's relations and feelings towards Mrs. Robinson and Mr. Freeman would be competent evidence; but in general the conversations between Mrs. Robinson and Dr. Beers could not be competent evidence in detail. The nature of the relationship existing between them might be or might not be, according to circumstances.

MR. GOODRICH. We did not intend and do not ask to extend it beyond what facts may be reasonably competent to show the general relationship existing between them. If we carry the inquiry too far into details, we shall submit at once to the decision of the court.

FIELD, J. You can show, of course, that Dr. Beers had access readily to both Mr. Freeman and Mrs. Freeman, and if that is shown, his general relations to Mrs. Robinson and Mr. Freeman and Mrs. Freeman, and what he did, of course, to either of the persons that are deceased.

Q. (By MR. CRANE.) Mrs. Robinson, do you remember Dr. Beers calling at Mrs. Freeman's during her sickness? A. Yes, sir.

Q. How many times did he call while you were there? A. I think he was there every day while I was there; I don't know how many times he called before.

Q. Did he see Mrs. Freeman? A. Yes, sir.

Q. Did he carry anything there? Did you hear Mrs. Marshall's testimony? A. I have no recollection of it; I wouldn't say he did not, but I have no recollection.

Q. How many times did you see him in the room at Mrs. Freeman's? A. Every time he come there he went in to see her.

Q. Do you remember anything about a little bottle that Mrs. Wright said she saw Beers place upon the mantel-piece? A. No, sir, I don't; I don't know anything about it.

Q. Did he attend her funeral — Dr. Beers? A. I am quite certain he was at the cemetery, but he did not go to the church or come from the church with us. But I am quite sure that he was at the Garden Cemetery when we went there.

Q. How frequently did he call at your house while Mr. Freeman was sick? A. He was there every day that he was sick.

Q. Do you remember his being there when Charlie and Mr. Freeman went to church on Sunday? A. Yes, sir, he was.

Q. What time did he come there on the Monday when Mr. Freeman returned home sick? A. Well, I don't know; I don't think he had been there a great while when Mr. Freeman come home — I don't remember.

Q. Do you know whether he saw Mr. Freeman? A. Yes, sir, I know he did.

Q. During the sickness — he did? A. He saw him every day.

Q. Was he in his room? A. Yes, sir.

Q. In his room alone? A. Yes, sir.

Q. Did he talk with Mr. Freeman? A. I suppose he did; I was not present — not always — when he was in the room with him.

Q. Do you know whether he gave Mr. Freeman any food or medicine? A. I don't know of Mr. Freeman taking either one from him. I know that he brought medicine to Mr. Freeman; I don't know whether Mr. Freeman ever took it. I don't know anything about it. Before he was taken sick in bed he brought medicine to him.

Q. Do you know what it was? A. I do not; something for his throat he said; he complained of this sore throat.

Q. Mr. Freeman did? A. Yes, sir, and he brought him some medicine, but whether Mr. Freeman ever took it or not, I don't know. I never saw him take it. When he first went to work to this place that he was working in when he died, he brought it to him.

Q. And how recently before he was taken sick and took his bed did Dr. Beers bring him medicine? A. Well, it was some time after he went to work there. When he first went, the first week he was working there, he complained of his throat being sore, and the doctor told him — the following Sabbath he met him at my house, and he told him he would make a preparation for his throat, and he done so and brought it to the house and left it for him.

Q. Was he there the day before Mr. Freeman died? A. Yes, sir.

Q. In the room? A. He was, in the forenoon on Friday.

Q. Do you know who saw him there during the time Mr. Freeman was sick? A. I don't know; whoever happened to be there; I couldn't tell you.

Q. Whether Mrs. Ingraham was at your house frequently? A. At what time?

Q. During this time? A. I don't believe she was in the house when Mr. Freeman was sick but once.

Q. Do you know whether Beers was there then? A. No, sir, for it was about somewheres towards lighting the gas, I guess — about dark, when she called that day.

Q. After Mr. Freeman was taken sick do you know whether he brought him any medicine or anything? A. He brought him some wine.

Q. Do you remember what day that was? A. That he brought the wine?

Q. Yes. A. I think it was on Wednesday morning.

Q. Let me go back now, while I think of it. Whether or not he carried some wine over to your sister in South Boston, or what purported to be wine? A. Well, I think if he did it was before I went there.

Q. Before you went there? A. I think so, if he did carry any over; I don't know that he did.

Q. He was acquainted with your sister, was he? A. Yes, sir.

Q. Do you know whether he visited the house frequently? A. My sister's?

Q. Yes. A. He called there once or twice that I know of through her telling me and him telling me; that is all.

Q. He had called before Mrs. Freeman was taken sick? A. Yes, sir.

Q. He told you so? A. Yes, sir.

Q. Did you ever call with him? A. I have no recollection of ever calling at my sister's with him.

Q. Did he say anything to you while Mr. Freeman was sick when he visited the room of Mr. Freeman?

[Objected to.]

FIELD, J. Well, it may or may not be competent; I don't know what it is.

Mr. WATERMAN. I withdraw the objection.

Q. (By Mr. CRANE.) Did Dr. Beers say anything to you while Mr. Freeman was sick and during the time of his visit to his room, in reference to Mr. Freeman's condition? A. Well, he said he didn't think that Dr. Nichols knew what ailed him, or Dr. Driver; he said they were fools of doctors in Cambridge and couldn't tell what ailed the man.

Q. When did you first know that Mr. Freeman had an insurance on his life payable to his wife Annie? A. I couldn't tell you when I first knew it; I suppose when he had his life insured. I think that was in 1882; I suppose I did, I don't remember.

Q. When was that transferred? When was the transfer made? A. I can't tell you.

Q. At whose suggestion was it made payable to you? A. I don't know that.

Q. Where was it done? Do you remember where it was done? A. Where the transfer was made?

Q. Yes. A. I don't know as I understand you.

Q. I will come back a little. Did you have any conversation at any time about having that policy transferred after your sister's death to you? A. I think after the death of the baby that he talked about it—no, I don't know; I think—

Q. Was there anything said about it before then? A. Well, I don't know, Mr. Crane, when it was talked about.

Q. Well, what was said at the time—about the time it was transferred, or before it? A. I don't know as I could give the exact language.

Q. What did he say at any time about it? How came he to transfer it to you? A. Well, it was my sister's wishes, he said, that he should transfer that in case anything should happen to me; and the last decision was, he intended going to sea and he wanted to make it all secure before he went, that if anything should happen to him, that I could have the money.

Q. Did he say that 'was at the request of your sister? A. My sister — not about his going to sea — about his having it made over.

Q. About the transfer of the policy. When was this talk? A. Well, I couldn't tell you just when it was. It was [pausing] — I think that perhaps it was at the time that he was out of work, that he talked about going to sea. That would be, I think, in April or May — I couldn't tell you, Mr. Crane.

Q. What did he say he wanted done with the proceeds, in case of his death? A. What he wanted done with the money?

Q. Yes. A. Well, I don't know that he ever said anything about what was to be done with it. He wanted I should have it. I don't think there ever was any talk about what should be done with it.

Q. Did he at any time ever say anything to you that he would make that over on condition that you would take care of the children? A. No, sir, he did not. He knew that I would take care of Arthur, anyhow. He never said anything about taking care of the children.

Q. Were there any conditions about it? A. No, sir, there was never any conditions about it.

Q. The baby was given to Lizzie? A. Yes, sir, by her mother, but not by her father.

Q. Do you remember of any one asking Dr. Nichols to go in and see Mr. Freeman as to any disposition of the children, just before he died? A. Well, that was on Saturday.

Q. What was that? A. When he told me that he was so very sick.

Q. When who told you? A. Dr. Nichols. I asked Dr. Nichols to go in and ask him about Arthur, for I was afraid that his folks would want the child and I would not have given him up to them, for I thought a great deal of Arthur. And Dr. Nichols went in and asked him — I think the words the doctor used was, "Mr. Freeman, you are a very sick man; we will hope for the best, and in case you do not get well what is to be done with Arthur? Have you anything to say in regard to Arthur?" And he said yes, he wanted Arthur to remain with his sister. I then said to Dr. Nichols, "You ask him who he means by his sister." The doctor asked him and he said, "His Aunt Sarah — Mrs. Robinson."

Q. During the time he was out of work can you state what was said about his transferring this policy to you? A. I don't know as

there was anything said about it then. I don't know when it was. I say that was the time that he talked about going to sea.

Q. Had there been any talk up to that time about the policy between you and him? A. I don't think so; I don't know — there might have been; I couldn't tell you.

Q. I believe I asked you whether you had any talk with Belle Clough about the time of Mrs. Freeman's funeral, about this policy?

A. No, sir, I did not.

Q. Have any talk with her at any time? A. Nor with any one.

Q. You heard what she stated on the stand about the conversation with you? A. I heard part of what she said.

Q. You had no such talk with her? A. No, sir, I did not, nor with any one. The only two that I should have talked on such a subject was to Mrs. Barnes or to Mrs. Marshall, and I didn't talk to either one of them about it.

Q. Who is Mrs. Barnes? A. Mrs. Barnes is a friend of my sister and a friend of mine also. She is a woman that took a great deal of interest in my sister's welfare.

Q. At the time Mr. Freeman was taken sick on the 22d of June, did you know anything about the policy being transferred? A. Yes, sir, I knew that he had applied for to have it transferred, but nothing further; I knew nothing about it.

Q. Had you received any paper from anybody about the transfer? A. I never received a paper from anybody.

Q. When did you first know that it was made payable to you and entered upon their books? Who first told you? A. The first man that told me was the governor of the Colony that Mr. Freeman belonged to.

Q. Who was he? A. I think his name is O'Hara.

Q. Where does he live? A. I don't know where he lives.

Q. What office did he hold? A. He holds an office — I couldn't tell you — he is a shipping agent, I think, —

Q. What office did he hold in the Colony? A. He was the governor to the Colony.

Q. Of which Colony? A. The one that Mr. Freeman belonged to.

Q. Now when did he tell you? A. The Sunday afternoon after Mr. Freeman died.

Q. Where were you? A. I was in my own parlor, sitting.

Q. What was the occasion of his coming out there? A. He come to see Mr. Freeman, not knowing that the man was dead.

Q. What did he communicate to you? A. He asked me how Mr. Freeman was off for money, and I told him I didn't know of his having any money. He wanted to know who took care of him through his sickness and provided his medicine; that had he lived

any length of time—I think it is after they are one week sick—he said that they would send watchers and a nurse to take care of him. I told him that I had got his medicine. He asked me if ten dollars would cover the amount. I told him it would more than cover it. He took ten dollars out of his pocket and he gave it to me. I told him I didn't want to take it for getting medicine for Mr. Freeman, and I returned the money back and he turned to Lizzie and told her to buy something for Arthur with it. Lizzie took the money.

Q. What was said then about the policy being made payable to you? A. He told me that Mr. Freeman had told him the last night of the Colony—that he had a long talk with him and that he said that he had made over the papers to me, and he asked me if I had the papers. I told him I had no papers whatever, nor I never had any.

Q. Never had any? A. No, sir, I never had any.

Q. This is after he died? A. This is the Sunday afternoon after he died.

Q. Now, what conversation did you have with Flora A. Stanwood? You heard her testimony, did you? A. Yes, sir.

Q. Did you send word to her to come and see you? A. I did not, sir; I didn't know there was such a person living.

Q. Who did send word to her? A. If she was sent for, Mr. Freeman sent for her; I did not.

Q. Sent word by whom? A. If she was sent for by any one, it was by Lizzie.

Q. You did not send word? A. I did not, sir; I didn't know anything about her.

Q. You did not belong to any of these colonies? A. No, sir, and I didn't know any one in that Colony only Mr. Freeman and Mrs. Marshall.

Q. What was the talk when she came out there? A. She introduced herself when she came to my door and told me that she was the collector of the Colony, and she had her book, I think, in her hand; and she asked me—I think she asked me first if she could see Mr. Freeman. I told her I would go in and ask him if he wanted to see her. He said he did. She then asked me if I knew how Mr. Freeman was situated in money matters. I told her that he did not have but half a dollar.

Q. What say? A. I told her all the money he had was half a dollar. She asked me if I thought it would relieve his mind to have his assessments paid. I told her I didn't know anything about it, and she went into the room with Mr. Freeman. What the conversation was between them I don't know. She receipted some bills, how many I don't know, and left them with Mr. Freeman.

Q. Left them with him? A. With Mr. Freeman; I think she put them on the table.

Q. What say? A. I think she laid them on the table at his bed.

Q. And after that did she come out there? A. She came out there on Monday — the following Monday.

Q. For what purpose? A. Well, she knew Mr. Freeman was dead, and she came out to arrange — she and another lady — about flowers for the funeral, and to arrange for the funeral.

Q. You heard what she said about the policy — whether it was all right, whether you would get it? A. I don't think I said anything to her then about it — I know I did not; I knew nothing about it, only what Mr. O'Hara had told me. I know I said nothing to her then.

Q. And he told you afterwards? A. He told me on Sunday, previous to Monday.

Q. Did you at that time have any talk with her — manifest any anxiety about having the policy transferred? A. No, sir, I am sure I did not.

Q. Did you say anything to her about the transfer of the policy at this time? A. I don't remember of saying anything about it, not then — do you mean on Saturday?

Q. Yes, before Mr. Freeman died. A. No, sir, I did not.

Q. When did you first talk with her about it? Do you remember what day it was that Mrs. Stanwood called? A. She called on Saturday afternoon.

Q. She was uncertain whether it was Saturday or Friday. A. Well, it was on Saturday; I am quite certain of that.

Q. What day was it you say that she called? A. I say she called on Saturday.

Q. Was it the same day he died, or the day before? A. No, sir, he died that same night.

Q. When did you see her after that to have any talk with her? A. I saw her on Monday.

Q. That was when the arrangement was made about the funeral? When did you see her to have any talk about the insurance? A. I don't remember to have had any talk with her about the insurance till she sent me another assessment for Mr. Freeman.

Q. Did she send it or bring it over? A. She sent it through the mail.

Q. What conversation did you have with her, if any? A. Well, she come out to my house then; I don't remember whether it was at Lizzie's invitation, or how she come to come out; I have forgotten. I spoke about this assessment, about paying it after the man was dead. She said that it was the rule in the Colony, if the assessment

was made out before his death that they had to pay it, and that I could not draw the money if that was not paid, and I paid the money, — I paid the assessment, — \$1.10 or \$1.15, I have forgotten which it was.

Q. Do you know when it was? A. That was after Mr. Freeman — I don't know when it was; it must have been in July, because he would not be assessed; I don't know when it was.

Q. Some time afterwards? How did you get this money — who brought it to you? A. Mr. Bugbee brought it to me. He brought a draft for the money.

Q. Did you have any paper whatever? A. For what?

Q. In your hands showing it was payable to you, until Mr. Bugbee brought it to you? A. No, sir, I did not. Mr. Bugbee sent me a postal card to call at his office at ten o'clock — I cannot remember the date of the card, but I know the hour was ten — to meet Mr. Muzzey and him at his office on Washington Street, and bring the necessary papers to draw the money. I had no papers, and my daughter and I went into the office.

Q. You had the old policy payable to Annie? A. I did not have it till that morning, when I took it out of Mr. Freeman's papers, but that did not entitle me to the policy.

Q. You found it among his papers? A. Lizzie found it among her uncle's papers. We brought it into Boston. Mr. Bugbee said I could not draw the money with that. He wanted to know where the other papers were. I told him that I had no other papers.

Q. You told whom? A. I told Mr. Bugbee and Mr. Muzzey.

Q. Is that the paper that you carried in? [Presenting exhibit "B" to witness.] A. My name, I think, is on it, if it is the one I carried in; I signed it at my house afterwards.

Q. There is your name there? A. Yes, sir.

Q. Whether that is the paper you carried in? A. Yes, sir.

Q. Did you have any other paper? A. He said I had to have other papers; he told me that had nothing to do with me whatever, that that did not entitle me to the money. He sent to Mr. Shepard's office, and Mr. Shepard knew nothing about the papers. Mr. Bugbee said, "Mrs. Robinson, you go home; I won't trouble you to come into Boston again, I will call at your house. I will go to Lawrence to Mr. Shepard's house to-night and see about the papers." He went there, and I think the following — the following day he did not call at my house, but the next day he called at my house in the morning with the draft and some paper, I don't know what it was, which he said was at Mr. Shepard's, had not been returned to Boston, and I signed it and I signed that [exhibit "B"], and I got the draft for two thousand dollars.

Q. Did you have any other paper in your possession? A. Never, only long enough to sign it in my house.

Q. You went over to your sister's on Monday night? A. Yes, sir.

Q. And stayed Monday night? A. Yes, sir.

Q. Did you on Friday, — when you went there in answer to a postal card on Friday evening, did you give your sister any medicine or anything of that kind that day? A. No, sir; I did not.

Q. How long did you remain there? A. I remained just long enough to put the baby to sleep, that is all.

Q. Who were present? A. The nurse.

Q. Was Mr. Freeman there? A. I don't think Mr. Freeman was there; I don't know as I would like to say.

Q. Now, will you state all that you did after that, after you went over on Monday? You say you gave her no food or medicine that first night you were there — Monday? A. No, sir; I did not.

Q. Now, on Monday, state all that you did after you went there to take care of her until she died? A. I done whatever there was to do; I don't know that I could state everything I did. The first thing I done was to send Mr. Freeman for her first husband's sister, and she come and helped me to give her a bath.

Q. Who is she? A. Mrs. Ellen Parker, on Tudor Street, South Boston.

Q. How soon did she come? A. Just as soon as Mr. Freeman could get her. It was early in the evening.

Q. Why did you get her instead of the old nurse? A. She said she was sick — lying on the lounge in the kitchen. I knew Mrs. Parker, and I didn't know the other one.

Q. Was the old nurse discharged because of her sickness? A. I don't think she was; I don't know, sir.

Q. Why was she discharged? A. I think it was because I went to take care of my sister.

Q. You say you got this Mrs. Parker; how long did she stay? A. She stayed there, I should judge, till ten o'clock in the evening. Dr. Davison called in the evening and gave me directions what to do for my sister during the night; Mrs. Parker was there that night.

Q. Did you at any time administer knowingly any arsenical poison or poison of any kind to your sister? A. No, sir; nor to any other person.

Q. Did you give her any medicine which you thought had arsenic in it? A. No, sir; I did not.

Q. Did you at any time give her anything that you thought was poisonous? A. No, sir; I never handled anything that I thought was poison in my life.

Q. Do you know what arsenic is? A. I do not.

Q. Did you ever see any? A. No, sir; I never did to my knowledge.

Q. Did you ever buy any anywhere? A. No, sir; I never did.

Q. Did you ever have any prescription for any at any place? A. Not that I know of.

Q. Did you ever handle any in any way? A. No, sir; I never handled any.

Q. Did you ever have any conversation with anybody about it? A. Never.

Q. Ever talk with any lady or gentleman about it? A. No, sir; you are the first one I ever had any talk about arsenic with.

Q. And you had no talk with anybody about it? A. No, sir.

Q. Did you ever read about it? A. I never did.

Q. Know its properties? A. Well, I supposed from what I have heard that it is poison, but from my own knowledge, I know nothing about it.

Q. Now, during the time you took care of your brother-in-law, — Prince Arthur, — did you at any time administer to him knowingly any poison? A. No, sir; I did not.

Q. Did you give him any medicine of any kind? A. I gave him whatever medicine Dr. Driver left for him, — that is the only medicine I gave him.

Q. Did you give him any medicine in which you supposed there was poison? A. No, sir.

Q. Or anything that you supposed was poison? A. I never supposed there was poison in medicine until since I have been in jail; I never supposed anything about it.

Q. You gave him the prescriptions as — A. Just as they come from the druggist.

Q. And no other? A. No, sir.

At 6 P.M. the court adjourned to Thursday, February 9, at 9 A.M.

FOURTH DAY.

THURSDAY, Feb. 9, 1888.

The court came in at nine o'clock.

Direct examination of SARAH J. ROBINSON, continued.

Q. (By Mr. CRANE.) Mrs. Robinson, I will ask you if you had any conversation with Belle Clough about the insurance before Mrs. Freeman's death? A. No, sir, I did not.

Q. Did you tell Belle Clough that Freeman was a lazy and good-for-nothing fellow? A. I never told anybody such a thing, for I never thought it.

Q. You didn't tell her so? A. No, sir.

Q. Did Belle Clough go to South Boston with you on the day of the funeral? A. No, sir.

Q. You heard Mr. Chandler's testimony, did you? A. Yes, sir.

Q. Do you remember of having any conversation with him as he narrated? A. In regard to what?

Q. In regard to insurance. A. I don't think I ever had any conversation at any time with Mr. Chandler about insurance.

Q. Where was Mr. Chandler at the time he said he had the conversation with you? A. I am sure I don't know where he stated he was.

Q. Do you know Mr. William Foster? A. I do.

Q. Did you have any conversation with him about the insurance the week of Mr. Freeman's sickness? A. I may have talked with him about it after I knew about it, but I could not have talked with him before Mr. Freeman's sickness about it.

Q. Did you ever talk with him about it? A. Not before his sickness about it.

Q. Do you know F. J. Hayes? A. I don't know whether I do or not.

Q. Did you see him on the stand when he testified—or let me ask you, did he come to see you at the jail, a man by the name of Hayes? Did he ask you if you paid any funeral expenses? A. No, sir, he did not ask me any such questions. He came to see me at the jail with my brother-in-law.

Q. Did you tell him then you had received four thousand dollars?

A. No, sir, I did not.

Q. Who was your brother-in-law? A. John Robinson of Natick.

Q. Had you then received any four thousand dollars? A. No, sir, I never received four thousand dollars.

Q. Now, Mrs. Robinson, when you received the two thousand dollars insurance money, are you able to state where you paid it?

A. In part I am.

Q. Well, you have heard the brokers state that you paid them. That is correct, is it? A. Yes, sir.

Q. Who paid the other expenses? What other expenses were paid, or what other bills were paid, and who paid them? A. My daughter Lizzie paid all Mr. Freeman's bills but one, and that I paid.

Q. What one was that? A. It was a bill that my sister owed a lady in Charlestown of borrowed money. I think that I paid that myself.

Q. Do you know it was paid? A. I know it was paid, yes, sir.

Q. Who was the lady? A. A Mrs. Locklin on the corner of Pearl and Bunker Hill Streets.

Q. How came you to pay that? A. It was money that my sister had borrowed at different times from her, and it worried my sister a good deal, and she sent to see Mrs. Locklin at the time she was sick. I am quite sure it was the day before she died, and Mrs. Locklin came there; and it worried my sister a good deal about the money. She told her not to worry anything about it.

Q. Who did? A. Mrs. Locklin did, told my sister not to worry about it. My sister told her her husband would pay it to her in time. That was all that was said about it.

Q. Was she an acquaintance of your sister? A. Yes, sir, we had known her about, I think twenty-five years, twenty-four or twenty-five.

Q. On intimate terms? A. Very.

Q. Do you know who paid the funeral expenses? A. I do.

Q. Who? A. My daughter Lizzie paid all the bills with the exception of that one, her uncle's.

Q. Whether you let anybody have any money, loaned any money? Did you let Dr. Beers have any? A. Yes, sir.

Q. How much did you let him have? A. Well, I wouldn't be able to state this morning just how much, but between four and five hundred dollars. I think that I gave the correct statement to one of the detectives when I was first arrested. It was then fresh in my memory.

Q. Did Mr. Moore and Mr. Bean, the detectives, visit you at the jail? A. Yes, sir; they did.

Q. Did you then give a detailed statement? A. I did.

Q. And did you state to them that you paid Dr. Beers four hundred dollars? A. I did. I am quite sure I did.

Q. And did they take your statement in writing? A. Yes, sir.

Q. What became of your papers, — the receipts and all the papers that you had? A. I suppose the government had them. I don't know anything about them. They were all at the house when I was arrested.

Q. What day were you arrested? A. On the eleventh day of August, 1886.

Q. And you have been in jail since? A. Yes, sir.

Q. Whether or not you were arraigned in the Somerville police court on another charge with Dr. Beers, and had a hearing there?

Mr. WATERMAN. Well, that I object to.

FIELD, J. How is that important?

Mr. GOODRICH. Whether she herself had been arraigned and tried in that court, I suppose would be competent as showing her conduct, experience and history since her arrest; as bearing upon her behavior and conduct.

FIELD, J. I do not see its relation to the case.

Mr. GOODRICH. I want to lay the foundation that since her arrest she had conducted herself under severe ordeals and under trying circumstances in a manner which indicated a consciousness of her innocence. I would like to show all her history since her arrest, as well as before, on that point. Upon that single point it seems to me it must be material and competent.

FIELD, J. I do not see that it is competent.

Mr. GOODRICH. Your Honor will save my exception.

FIELD, J. What is the question put?

Mr. CRANE. Whether or not you had a hearing in the Somerville court in August, 1886.

FIELD, J. Not a hearing on this charge, I understand?

Mr. CRANE. No, your Honor.

FIELD, J. We do not see its importance.

Q. (By Mr. CRANE.) Have you made an effort to get those papers since your arrest and imprisonment from the officers who took them? Have you sent for them? A. I don't know whether I have or not. I couldn't tell you. I think I spoke to one of the officers that came down to the jail about them.

Q. But you have been in jail ever since your arrest? A. Yes, sir.

Q. On what occasion have you been out of jail? A. I have been over to Somerville at the police court there.

Q. At any other time or place? A. Yes, sir, I was here before.

Q. How many days were you here in court? A. I think I was here a week, — I think so.

Q. Do you know when that was? A. On the twelfth day of December, I mean first.

Q. Do you remember what days you were in the police court in Somerville? A. No, sir, I don't. I don't remember the dates nor the number.

Q. How many days? A. I couldn't tell you.

Q. Think a moment. How many days were you in Somerville? A. I wouldn't tell you, Mr. Crane.

Q. As near as you can? A. I wouldn't like to state because I don't know. I can't remember.

Q. Whether more than one? A. Oh, yes, I was. I was more than four, but I don't know for certain.

Q. You heard some of the witnesses testify in reference to your statement about Lizzie and your husband coming back to you, appearing to you in the form of ghosts. Did you say that to anybody? A. No, sir; I don't think I did, for I never saw them.

Q. Did you tell anybody you did? A. No, sir; I did not.

Q. What did you say about that? A. I have repeated conversation that has been between Dr. Beers and my family and myself. I have repeated that to my people. He is a Spiritualist, and he has come to my house and discussed the subject. I am not one.

Q. What has he said? A. He has told about them coming to him, and I have alluded to that to other people.

Q. Did you say to anybody that they came to you? A. No, sir; I did not.

Q. You are not a Spiritualist? A. No, sir; I am not.

Q. Or in sympathy with that doctrine? A. No, sir. I was never at one of their meetings in my life.

Q. Did not believe in it? A. No, sir; I do not.

Q. Were you ever solicited to attend meetings by him? A. Yes, sir; frequently.

Mr. WATERMAN. Well, I object to that.

Q. (By Mr. CRANE.) How frequently was that matter discussed in your family, between Dr. Beers and members of your family? A. I have no idea.

Mr. WATERMAN. I object to that.

FIELD, J. We do not see how discussions between the witness and Dr. Beers on those subjects are material.

Q. (By Mr. CRANE.) I will ask you this question, whether you had an aversion to that doctrine and refused to attend meetings with him?

Mr. WATERMAN. I object to it.

Q. (By Mr. CRANE.) I will modify it, — whether you refused to attend meetings of the Spiritualists with him?

Mr. WATERMAN. I object to it.

FIELD, J. You may put the question.

Q. (By Mr. CRANE.) State whether you did refuse to attend meetings of the Spiritualists with him? A. Yes, sir; I did.

Q. Upon his solicitation? A. Yes, sir.

Q. And you never did attend any? A. Never.

Q. How frequently did you visit your sister while she was at work at Rev. Mr. Bates'? She was there three years; how frequently did you visit her? A. Well, that is something I couldn't tell you.

Q. Frequently? A. Yes, sir, I did; and I have done dress-making for Mrs. Bates and was there at the house several days, I couldn't state, while my sister was there.

Cross-examination.

Q. (By Mr. WATERMAN.) You knew Mrs. Marshall, Susan S. Marshall? A. Yes, sir; I did.

Q. Did you have any conversation with her with reference to insurance? A. At what time?

Q. At any time. A. I don't remember that I did. I can't call to mind now that she was at my house after the death of my sister.

Q. Did you have any conversation with her with reference to the insurance on Mrs. Freeman's life before she died? A. Mrs. Freeman never was insured.

Q. On the Freeman insurance? A. No, sir; I did not.

Q. Did you hear what she said? A. Yes, sir; but I don't think she said that I had any conversation about insurance before she died.

Q. Did you know that Prince Arthur had effected an insurance for the benefit of his wife? A. Yes, sir.

Q. When did you first know that? A. Well, I suppose I knew it immediately after he was insured.

Q. Did you talk with Mrs. Marshall about it? A. I don't remember.

Q. Within six weeks of the time the insurance was effected? A. I can't tell you whether I did or not.

Q. Do you remember having some conversation with her about it? A. In regard to that? No, sir; I don't. I might have; I can't tell you. I met Mrs. Marshall frequently, — and that was in 1882 that he was insured, — and I couldn't remember the conversations that I had at that time.

Q. Did you see Mrs. Marshall at the time your sister was sick? A. Yes, sir.

Q. See her there? A. Yes, sir; I sent for her.

Q. You saw her there? A. Yes, sir.

Q. Did you have a talk with her there, anything about Prince and the children? A. Yes, sir; I think I did.

Q. About their going to live with you? A. Yes, sir.

Q. You talked there? A. Yes, sir.

Q. How long had you been there then? A. I couldn't tell you.

Q. You were there about a week in the whole before your sister died, weren't you? A. I couldn't tell you just how long it was.

Q. Can't you tell the day you went there to take care of her? A. Yes, sir; I went there on a Monday.

Q. And she died the following Saturday? A. No, sir; she died on Thursday, the 26th.

Q. Then would you say you were there only part of one week? A. No, sir, I don't think so. I think that I was there, — I am quite sure I was there one Sabbath with her.

Q. Well, are you sure about it? A. Well, I am quite sure of it.

Q. Then you were there ten or twelve days? A. I don't know how many days. I don't remember the date, I only know the day that I went there, the day she died.

Q. What is the day you went there? A. On Monday.

Q. Now, can't you tell whether you were there on more than one Monday? A. No, sir, I can't.

Q. You can't tell whether you were there ten days or four days? A. No, sir, I cannot, I haven't got the dates.

Q. You went from R. H. White's? You were there at work at the time? A. Yes, sir.

Q. Did you go there to stay the first day you went there? A. No, sir.

Q. Did you go there the first time you went there on Monday? A. No, sir. The first time I went there was on Friday evening.

Q. Did you see your sister that evening? A. Yes, sir, I did.

Q. You didn't stay during the night? A. No, sir, I only stayed a short time.

Q. You went home? A. Yes, sir.

Q. Did you go on Saturday? A. No, sir, I did not.

Q. On Sunday? A. No, sir.

Q. On Monday? A. Yes, sir.

Q. The Monday following? A. Yes, sir.

Q. Why didn't you go there on Saturday and Sunday? A. On Saturday I had to go back to my work to the store.

Q. When did you see Mrs. Marshall there at your sister's; when was the first time you saw her there? A. I couldn't tell you whether it was Tuesday or Wednesday.

Q. Well, was it Tuesday or Wednesday? A. I wouldn't state, for I don't know.

Q. Was it on Monday? A. No, sir, I didn't see her on Monday, I don't think. I know I didn't.

Q. Did you have a conversation with her on Monday, the 24th of February? A. I know nothing about the dates. I can't tell you about the dates.

Q. You were there the second Monday—if you were there two Mondays, on the second Monday did you have a conversation with her? A. Well, if she was there I did, but I wasn't there, I think, on that Monday until the evening.

Q. Did you tell her at that time that you didn't expect Annie would live? A. I probably did.

Q. That she would never be any better and never would leave her room? A. I don't know as I said them words. I can't tell what the words were. Dr. Davison had told me that she couldn't live, and I suppose I repeated it.

Q. Had Dr. Davison been there then on Monday prior to her death? A. I think Dr. Davison was there every day that she was sick, for anything that I know.

Q. Had you talked with her prior to that? A. I talked with her before I stayed with my sister.

Q. You think you may have told her that you didn't think she would get well? A. If I was talking to her I may have, but I don't think I was talking to her that day.

Q. Did you ever say anything from the time your sister was taken sick other than that you knew she was going to die, when you spoke in reference to her sickness? A. I don't think I ever said I knew it, because I didn't know it. I may have said I was afraid she would not get well. I don't think I said I knew it, for I didn't know it.

Q. You didn't say you had a presentiment that your sister was going to die? A. No, sir, I did not.

Q. Never told it to anybody? A. No, sir, I did not.

Q. Did you write to Mrs. Marshall to come there? A. I either wrote or caused a postal to be written to her.

Q. Now can't you tell when she came there when I ask you if you didn't write to her the 24th of February to come there, and she came the next day, — on the 25th, on Tuesday? A. If I wrote to her on that day.

Q. Don't you remember that you did write on that day? A. No, sir, I don't remember what day I wrote. I know I wrote, and she came as soon as she received the notice.

Q. (By Mr. CRANE.) Wrote to whom? A. To Mrs. Marshall.

Q. (By Mr. WATERMAN.) What day and what time in the day do

you say your sister died? A. She died on Thursday, — ten minutes past one o'clock in the afternoon, on the twenty-sixth day of February, 1885.

Q. Was Dr. Beers there that day? A. Yes, sir.

Q. Did he bring some wine there? A. That day?

Q. Yes, or had he brought some there? A. Not that I ever knew of. I wouldn't say that he didn't.

Q. Did he ever bring anything there? A. Not that I know of. I don't want to say he did or did not, for I don't know.

Q. Did you see a bottle there that he brought there that set on the mantel? A. No, sir, I did not.

Q. Did he hand you a bottle and state to you that "You will find that to be strictly pure"? A. No, sir, he did not.

Q. You heard that statement by Mrs. Marshall, didn't you? A. Yes, sir.

Q. That is not so? A. No, sir. I won't say it is not so. I don't remember it. I don't remember of him ever bringing anything to the house.

Q. And it is not true you saw a little bottle containing some light colored liquid in it that set on the mantel-piece? A. I did not.

Q. At no time, from anybody? A. Well, I wouldn't like to state that.

Q. No; in the kitchen that was left by Dr. Beers and was set upon the mantel? A. I have just stated that I know of no medicine or anything that he ever brought there.

Q. Did you hear what Mrs. Marshall said about that or somebody else? A. Yes, sir.

Q. Did you hear what Mrs. Wright said about it? A. Yes, sir, but all I have to say is, I knew nothing about it.

Q. You didn't see it? A. No, sir, I did not.

Q. Do you remember her being in there at the time she speaks of? A. I remember of her being at my sister's, but I don't remember of her being there as many times as she stated. I don't remember of her meeting Dr. Beers in my sister's.

Q. How many times did you see Dr. Beers?

Mr. CRANE. Where?

Mr. WATERMAN. At Mrs. Freeman's.

Mr. CRANE. What time?

Mr. WATERMAN. Well, while she was sick. [To witness.] While you were there, while she was sick? A. I think he called every afternoon while I was there.

Q. Any other times except afternoons? A. I don't know.

Q. Call in the evening? A. No, sir, he never was there in the evening.

Q. Whom did he call to see when he came there? A. Well, I suppose it was to see me and to hear how my sister was.

Q. Had he any business there? A. I didn't know of any.

Q. You introduced him to people there, didn't you? A. I don't remember of introducing him to any one there. I don't remember whether I did or not. If there was any one there I probably did.

Q. You don't remember it? A. No, sir, I don't.

Q. You had known him then some time? A. Yes, sir.

Q. Did anybody else introduce him? A. That I don't know. He never stayed but a very short time.

Q. How long did he stay at a time? A. I don't remember of him being there at any time longer than—I don't remember of him staying any length of time.

Q. What do you mean by "any length of time"? How long would he stay? A. I don't think he stayed more than half an hour at any time.

Q. Where would he be when he came there? Where would he sit, in the kitchen? A. Well, he stepped into the room to see my sister, to see how she was.

Q. When would he step in there? A. When he was in the house.

Q. Of course, he must have been in the house to have stepped in there, but what part of his visit there would he step into the room? A. I couldn't tell you that.

Q. When he first went there, or after he had been there, or just before he went away? A. I wouldn't state when it was.

Q. Don't you remember when it was? A. I don't think I could remember at what part of his visit he went in to see my sister.

Q. Can't remember one time? A. No, sir, I can't.

Q. Whether he went in when he first went in or after he had been there or just before he went away? A. Well, I think he always went in before he went away to bid her good-by.

Q. Did he always go in to see her when he came to see you? A. Yes, sir. He didn't see her the day she died.

Q. Did you go in there with him when he went in to see your sister? A. No, sir, I did not.

Q. Ever? A. I don't think I ever was in the room with my sister and he.

Q. Any one else in there? A. No, sir.

Q. Any one else in the house? A. There might have been.

Q. Well, was there? A. I know Mrs. Marshall has met him there, but I can't tell you who was there. They were all entire strangers to me in South Boston.

Q. Every time Dr. Beers came there to see you he had no other

business but to see you, he went in to see your sister, and you didn't go in with him? A. No, sir, I didn't.

Q. And don't know of anybody else going in there with him? A. No, sir, I don't know they did.

Q. How long would he stay in the room when he went in to see her? A. That I won't state for I don't know.

Q. Can't you tell very near how long he stayed in? A. Well, he couldn't have stayed a great while for he wasn't in the house a great while.

Q. How long? A. Probably five or ten minutes.

Q. Where were you when he went in to see your sister? A. Probably in the kitchen.

Q. You were never in there? A. No, sir.

Q. Can you tell me how many times you remember of his going in to see your sister? A. I remember he went every time he was at the house to see my sister, only the day she died; and that day he didn't see her, for he came in just a few minutes after she died.

Q. Oh, he didn't get there until after she died? A. No, sir.

Q. Do you know how long he had been acquainted with your sister? A. Well, I don't. I know he met her at my house in 1884, and they had kept up the acquaintance from that time.

Q. Did you have any of these conversations which have been related here by the several witnesses about your seeing spirits of your husband or of any of those who were dead in your family? A. No, sir, I never related any such.

Q. About their speaking to you? A. No, sir, I never did.

Q. And telling you they were coming after your sister, or after Prince? A. No, sir.

Q. And would soon come and take him away, or anything of that kind? A. No, sir.

Q. You heard all these witnesses here testify about it? A. Yes, sir.

Q. You say that isn't so in either case? A. I say it isn't so—that I saw them.

Q. That you said you saw them? A. No, sir, I did not.

Q. And it is not as they stated at all? A. I have repeated the conversations of others.

Q. What Dr. Beers said? A. Yes, sir.

Q. And that was all, was it? A. Yes, sir.

Q. But you never have said that you yourself had seen them? A. No, sir, I never have.

Q. You didn't say that some one tapped you on the shoulder, and said it was your dead husband? A. No, sir, I never did.

Q. You heard what was stated here? A. Yes, sir.

Q. That is not so? A. No, sir, it is not.

Q. You did not then sit down on the lounge, or swoon away, or faint away or pretend to, something of that kind, did you? A. No, sir.

Q. Do you remember anything of that kind? A. No, sir, I do not.

Q. Was there anything of that kind ever took place? A. Not with me, it did not; no, sir.

Q. You heard what Mr. Chandler said? A. Yes, sir.

Q. And you say that that is not so? A. When was this conversation with Mr. Chandler?

Q. You heard what he said, didn't you? A. Yes, sir, but what time was it?

Q. I don't know. Perhaps you could remember the time. Now, did you have any conversation about the time your sister died, while she was sick, as to the insurance being made over to you? A. No, sir, I did not.

Q. Didn't express any anxiety or any desire to have it done? A. No, sir, I never thought of the insurance.

Q. Did you ever make any effort to get any person to influence Prince Arthur to come and live with you, or to have the children come and live with you, little Arthur and the baby? A. Arthur was mine; I had no need to get any one to influence him to it.

Q. What do you mean by that? A. I mean my sister had given Arthur to me before she died.

Q. Did you try to get anybody to use that influence to have Prince come and live with you after her death, believing that she was going to die, and you wanted him to come and live with you? A. I don't know that I ever asked any one to use their influence. I have talked the matter over with people that have come in there to the house, whether it was best or not. They have asked me the question, what was going to be done with the children, and I answered them.

Q. Well, you don't remember trying to get anybody to use their influence in that regard? A. No, sir; I knew he was coming if my sister didn't get well.

Q. Did you say that you wanted somebody to use their influence to get him to come there so he shouldn't go to the Melvins'? A. No, sir; I did not. I never knew he thought of going.

Q. Did you say you were afraid or you thought the Melvins would want to get the insurance, and you didn't want them to have it, or something substantially like that? A. No, sir; I never did.

Q. You never alluded to that subject in that way, did you? A. No, sir; I never did.

Q. You knew when the insurance was assigned for your benefit, didn't you, by Prince? A. I knew he talked of having it done. I

knew he had some paper made out to that effect, but I never knew of him taking that paper to the Colony. I didn't know anything about that.

Q. But you understood it had been done? A. Yes, sir; not that it had went to the Colony, I did not.

Q. What did you understand had become of it after it was assigned? A. I knew nothing about it. There never was any conversation about it.

Q. Did you have any anxiety about it? A. No, sir; I never did.

Q. Did you ever ask anybody to go and see if it had been properly done and finished, so when the death took place it would come to you? A. No, sir; I did not, for I knew nothing about it.

Q. Didn't you want to have it assigned to you so that you could take care of little Arthur with the money? A. No, sir; I did not.

Q. Never anything of that kind? A. No, sir. Money or no money, I should have taken care of him.

Q. Nothing of that kind, I mean. Don't catch me on the near phraseology; take the substance of what I say? A. I say I never did.

Q. And when Prince Arthur was taken sick or about that time, either just before or a little after, you made no effort to see or ascertain whether the insurance was made over properly so it would come to you? A. Not until after the man was buried, for I knew nothing about it.

Q. That was the first you knew of it? A. After he was dead, that was the first I knew of it. The first I knew was Sunday afternoon after he died.

Q. You never said anything to Lizzie, your daughter, who is now dead, about it? A. Before he died?

Q. At any time? A. No, sir; I did not.

Q. Never said anything to Belle Clough about it? A. No, sir; I did not.

Q. Or anybody else, there is no need of calling their names? A. No, sir; nor to anybody, until he was dead.

Q. You remember a Flora Stanwood coming to your house while Prince was sick? A. Yes, I do.

Q. Two days or so before he died? A. No, sir.

Q. How long? A. She came on Saturday afternoon and he died that same night.

Q. Do you know how she came to come there? A. She said she was sent there.

Q. Well, do you know? A. I did not know.

Q. She introduced herself to you? A. Yes, sir; she did.

Q. You were never a member of the Colony? A. No, sir; I never was.

Q. You didn't know she was seeretary? A. I knew nothing about her; never saw the woman before, never heard of her.

Q. Did you tell her that he hadn't a dollar in the world, or a half a dollar; that Prince had not or that you had not; there wasn't half a dollar to buy some medicine with? A. I didn't say anything about what I had, I said he didn't have any.

Q. Didn't say anything about yourself? A. No, sir; I didn't.

Q. You said that he was in pressed circumstances? A. She asked me the question how he was for money, and I told her he didn't have any money.

Q. Did you have any talk with Flora Stanwood at that time when she came there about the insurance? A. Nothing, only about those dues that she talked about. She asked me if it would ease his mind to have them paid, and I said I didn't know, she might go in and talk with him; and she went in and talked with him.

Q. Did you express any concern or anxiety about it? A. No, sir; I did not.

Q. Did you tell her not to say anything about it, you didn't want the Melvins to know about it? A. No, sir; I did not.

Q. Or anybody; did you ever tell anybody that? A. I never told anybody I didn't want Mrs. Melvin to know it.

Q. Did Mrs. Melvin know it until after Prince was dead? A. That I don't know, what she knew.

Q. I understand you to say that you did not tell Mrs. Stanwood not to say anything about the assignment of the insurance, nor did you tell anybody else not to say anything about the assignment for fear the Melvins, or Mrs. Melvin, would hear of it? A. No, sir; I could not have told any one, for I didn't know it.

Q. Well, I don't know what you couldn't have done, but you say you didn't tell anybody? A. No, sir.

Q. Never had any thought of anything of that kind? A. I never had.

Q. Did you tell Mr. Foster you wouldn't have had Freeman come and live with you if it hadn't been for the insurance made over to you? A. No, sir; I did not.

Q. Anything the substance of that, or anything that is approximately that? A. No, sir; I told nobody any such thing.

Q. Never had a thought of any such thing? A. No, sir; I did not.

Q. Did you tell Mr. Desmond that you were going to have thousands of dollars? A. No, sir.

Q. Pretty soon to pay the debts? A. No, sir; I didn't tell him such a thing.

Q. Never heard anything of that kind until you heard it here, did you,—until Mr. Desmond testified to it? A. No, sir; I did not.

Q. Was it Dr. Coggsell that you were acquainted with? Did you talk with him about this insurance after you got it? A. Dr. Coggsell.

Q. The two thousand dollars? A. Yes, sir.

Q. Did you tell him you were going to deposit it in some savings bank, somewhere, for the benefit of little Arthur? A. I don't think I told him I was going to deposit it in any place. He advised me to.

Q. Didn't you take three different checks from him for the purpose of making deposits in different places? A. I don't know. I took whatever he gave me.

Q. How many did he give you? A. I can't say.

Q. Two? A. I couldn't tell you.

Q. Three? A. I can't tell you.

Q. Or four? A. I can't tell you.

Q. No idea about it? A. No, sir.

Q. You say you don't remember what Dr. Coggsell has testified to here about the division of that insurance money which you received in three parts? A. I remember what he testified was correct.

Q. It was correct? A. That he advised me; but he didn't state that I said I had done it, and I didn't say whether I did or not. He advised me to do it.

Q. Did you tell him you had invested it afterwards in mortgages? A. I think I did.

Q. And was that true? A. No, sir; it was not.

Q. Did you tell him afterwards it had been paid back to you? A. I did.

Q. Was that true? A. Well, in part it was, and in part it was not.

Q. That is, about half true? A. Yes, sir.

Q. You got your property mortgaged, didn't you, raised money on some of your personal property, as has been stated here? A. Yes, sir.

Q. To these three or four different parties? A. Yes, sir.

Mr. STEVENS. Five.

Q. (By Mr. WATERMAN.) How many different ones did you mortgage your property to, four, or five, or three? You cannot remember, can you? A. Yes, sir — one minute. Five, I think.

Q. Always by your own name? A. No, sir.

Q. Any two of them by your own name? A. Yes, sir.

Q. Any three? A. I don't know.

Q. How many different names did you assume in giving the mortgages?

Mr. CRANE. Wait a moment. Has the court excluded that?

FIELD, J. How is it competent?

Mr. WATERMAN. The next I shall ask her is, what she did it for.

FIELD, J. Well, how is that competent?

Mr. WATERMAN. It is competent on cross-examination for one thing, at least. If it should be immaterial —

FIELD, J. If you can connect it, and show that by reason of that thing a pressure for money was brought to bear upon her, so as to cover this case, it may be competent, but apart from that you cannot prove that this woman has cheated or given false names for the purpose of exerting any influence on this case.

Mr. WATERMAN. I do not offer anything to impeach her for using different names, for the purpose of impeaching her reputation.

FIELD, J. If you connect it with any motive which might influence her in this case, you may put it in.

Mr. WATERMAN. Why did you use a different name from your own?

Mr. GOODRICH. One moment. I do not understand this has been admitted. Evidence of this specific offence is not competent evidence of any moral offence, it seems to me, not connected with the motive, and cannot be competent.

FIELD, J. Standing alone it is incompetent. Whether the attorney-general expects to connect it in such a way as to show there might have been extraordinary want of money by reason of loans obtained in that way or not, we do not know, but alone the question is incompetent. As I understand, it occurred some time in 1883.

Mr. WATERMAN. She owed these mortgages; she had used fictitious names in obtaining money; she believed that she was liable to arrest or punishment for what she had done voluntarily, and under the pressure of that belief she did these acts to get this money, and used it to pay those bills.

FIELD, J. You may ask her whether she believed anything about a pressure of money; you may ask her why she originally put it in a false name. Unless it is connected with possible motive to commit the crimes with which she is charged it is like proving she did one wrong act to show that she did another. The single question which we pass upon, is why she did it.

Mr. WATERMAN. I understand that to be proper, because at that time it was long before she had this money.

Q. (To witness.) Did you have a talk with one of your creditors, Mr. Tobin, at your house, with reference to the amount you had borrowed of him? A. I think I did.

Q. You heard what he stated here, didn't you, the other day, about going to your house and talking with you? A. Yes, he did come to my house.

Q. And did you tell him that you were going to have some money, that you knew where you could get it to pay him? A. No, sir, I did not. Mr. Tobin never pressed me for money.

Q. Did you tell him anything about it? A. I told him I would keep paying it along as I had agreed to.

Q. Did he ask you or did you tell him anything about using different names from your own in making the mortgage? A. Well, I couldn't state the conversation that was between him and I. He never pressed me for money.

Q. Was there anything said about you using the name of Mary Allen? A. There was something said, but I can't remember the conversation.

Q. Did he tell you you were liable for using another person's name? A. No, sir.

Q. Did anybody ever mention that? A. No, sir, they did not.

Q. Did you think you were liable? A. No, sir, I did not.

Q. Did you ever think you were liable for mortgaging your property under an assumed name? A. No, sir, I did not.

Q. The same property? A. No, sir, I did not.

Q. To different parties? A. No, sir. I didn't think anything about it.

Q. Never had any idea that was wrong, did you? A. No, sir, I did not.

Q. Thought it was right? A. I intended to pay them.

Q. Well, that was not the question; but did you think that was right, always? A. I didn't think there was anything wrong about it.

Q. Nothing wrong, so it didn't disturb your mind or conscience at all; you had no fear of any prosecution? A. No, sir, it never entered my mind.

Q. Or that you would be injured any way whatever? A. No, sir.

Q. And it was no inducement to you to obtain this insurance or use it in any way whatever? A. No, sir, it was not.

Q. Did you use the insurance money to pay these different parties as they have stated? A. Part of it I did, yes, sir.

Q. Did you tell anybody that Prince Arthur was a lazy fellow, a good-for-nothing fellow, and might as well be dead as alive? A. No, sir, I never did.

Q. Or substantially that? A. No, sir. I never thought the man was good-for-nothing and lazy.

Q. Did you tell him to go on the 17th of June to see his mother? A. Yes, sir, I did.

Q. That it would be the last probably that he would have the chance to go there? A. No, sir, those are not the words.

Q. Well, substantially that, that he probably would never meet

her again, or something of that kind? A. Arthur was crying to go and see the soldiers, and his father was going over to work, and I asked his father if he wouldn't stay at home and go to Charlestown with Arthur and he said he couldn't afford it. My reply to him was, "You will be just as rich a year from to-day and we may never all be together again." Those are my words.

Q. Did you hear what Mrs. Freeman testified to here, the mother of Prince? A. Yes, sir, I did.

Q. As to what you told her? A. She wasn't there.

Q. What she said to you? A. She wasn't there.

Q. There wasn't anything of that kind said? A. No, sir, she wasn't at the house.

Q. Did you write her a day or two before Prince died that he was getting better? A. Yes, sir. I never wrote to her when he was sick, it was my daughter, and probably that was written, and Dr. Nichols had said he was better, and of course she got whatever the doctor said; that was given to Mrs. Freeman.

Q. Did you tell Mrs. Freeman that when Prince started to go to South Boston to work that day you knew or expected he would be back, that you had had a presentiment that he was coming back, and that when you saw him coming back sick, or he came back sick, you were not surprised, or something substantially like that? A. No, sir.

Q. Or anything like that? A. No, sir.

Q. You didn't do anything of the kind? A. No, sir.

Q. You had had no vision of any kind? A. I never had a vision.

Q. Never had a vision, and never stated to anybody you had a vision or premonition in regard to these things as stated? A. No, sir, I never did. I have had marked dreams as anybody would have, that was all. I thought nothing more about it.

Q. Did you say what they have stated here, that you got a place at Mt. Auburn, and he had rather go to South Boston and spend all his money for car-fare? A. No, sir, he was —

Q. Well, you didn't say that, did you? A. I did not say it.

Q. Or anything of that kind? A. No, sir.

Q. Then I understand you to say that you deny all of these statements made by all of these different witnesses about what they state you said about having a presentiment, about visions or communications from the spirit land, and everything of that kind. You deny the whole of it, do you?

Mr. GOODRICH. That is rather broader than you have laid a foundation for.

FIELD, J. I do not think you can put so general a question as that.

Q. (By Mr. WATERMAN.) You say you never had visions? A. I say I never had any visions, nor never told any one so, but I have repeated what others have said to me.

Q. Now, did you say you never told anybody you had a presentiment, a premonition, from any of your deceased relatives, or about them, — that they were coming to take away any of your relatives? A. I have told a dream that I had, and told it in the morning, something about it, the same as anybody would.

Q. What dream was it? A. I couldn't tell you now.

Q. You never said anything except about a dream? A. No, sir; I did not.

Q. Never pretended you had any information, or insinuation from any source? A. No, sir.

Q. Do you say now that you dreamed all of these things that have been stated? A. No, sir; I do not.

Mr. CRANE. No, sir; she does not say that.

Mr. WATERMAN. Well, she can answer better, perhaps, than Mr. Crane can.

Q. How often do you say Dr. Beers came to your house while Prince was sick there? A. He was there when he came home sick, and he was there every day that he was sick.

Q. What time in the day would he come usually? A. Usually come in the afternoon.

Q. And about what time in the afternoon would he usually come, any particular time? A. Well, he usually came after three o'clock.

Q. How long would he stay? A. I couldn't tell you, perhaps an hour or two; I couldn't tell you how long.

Q. Stay in the evening? A. No, sir.

Q. Ever? A. Not at that time, he didn't.

Q. While Prince was sick, I am speaking about? A. No, sir; I never remember him being there in the evening.

Q. Did he come there Sundays? A. I don't think he was sick on a Sunday.

Q. Wasn't he sick on Sunday? A. No, sir; I don't think he was.

Q. Prince was not sick on Sunday? A. No, sir.

Q. When was he first taken sick? A. Well, what do you mean by being sick?

Q. I ask you when Prince was first taken sick? A. Well, the man wasn't well for a long while; but when he took his last sickness I am speaking of, he was taken sick on Monday and died on Sunday morning.

Q. He had been working up till that time? A. Yes, sir; until Monday afternoon.

Q. He had been to work at South Boston every day, hadn't he?
A. Every day from—I think he went there in May.

Q. Well. I mean every day just prior to his being taken sick?
A. Yes, I think he did.

Q. On that Sunday prior to the Monday when Princee was taken sick, was Dr. Beers at your house? A. He was.

Q. What time did he come there that day? A. He was there in the afternoon.

Q. What time in the afternoon? A. I couldn't tell you what time in the afternoon he came there. I think that he was there about two o'clock in the afternoon.

Q. How long did he stay? A. He stayed until he went in Boston with me in the afternoon, about five o'clock, I think.

Q. Who else was there that Sunday? A. My family was there, but I don't remember whether there was any callers there or not.

Q. Your family was there? A. Yes, sir.

Q. Charlie was there, was he? A. Yes, sir.

Q. There all day? A. No, sir; he was not.

Q. What time did he leave? A. His uncle and him left in the afternoon after Dr. Beers came to the house, but I can't state what hour they left.

Q. Then Charlie left and Dr. Beers and you were there?
A. Yes, sir.

Q. Where was Prince Arthur that day? A. At what time?

Q. Sunday. A. I can't remember whether he went to church in the morning or not.

Q. Where was he in the afternoon? A. In the afternoon he was at the house until he left to go to Boston.

Q. What time did he leave to go to Boston? A. Well, I can't tell you what time it was, I know it was after two o'clock.

Q. Was Dr. Beers there when he left? A. He was.

Q. Did you go with Dr. Beers when he went away? A. Yes, sir; I did.

Q. Where did you go? A. I rode into Boston with two children and he, and rode back again; didn't get off the car at all.

Q. Did he go back with you? A. No, sir.

Q. Then he wasn't there that Sunday evening? A. No, sir; not to my knowledge.

Q. Was he at your house Sunday prior to that? A. I think so.

Q. What time did he get there that day? A. Well, I can't tell you. He came at all times.

Q. You can remember, can't you; he came to see you, I suppose?
A. Yes, sir. I couldn't tell you anything about what time he got there.

Q. Was Charlie there? A. I don't know.

Q. What time did he go away from there, if he was there the Sunday before? A. I can't tell you.

Q. Was he there in the evening the Sunday before? A. I don't remember that. I don't think so.

Q. Was he there in the afternoon? A. He was there in the afternoon, I think.

Q. You think? A. I think so, I don't know.

Q. How long was he there that Sunday? A. I don't know.

Q. Was he there between those two Sundays? A. Yes, he was.

Q. How many times do you think? A. Probably every afternoon.

Q. Then you would say he was there every afternoon for the week prior to the time Prince was taken sick? A. I certainly would.

Q. Was he there the week prior to that? A. I was working in Boston until the 16th of June, and that was my last day in town to work, so that he wouldn't be at the house every afternoon when I wasn't there; but from the 16th of June up until Mr. Freeman's death I am willing to state that he was there every afternoon.

Q. Not in the forenoon? A. I don't remember of him being there in the forenoon but once.

Q. When was that? A. I think that was on—it was on the Friday previous to Mr. Freeman's death.

Q. Did you ever see him there on Sunday, in the forenoon? I mean, now, within the time that Prince Freeman lived at your house. A. I don't think I did.

Q. You have no recollection of it? A. No, sir.

Q. Have you any recollection of his having been there on any Sunday evening during that time? A. During the time that Mr. Freeman was at my house?

Q. Yes. A. Yes.

Q. When was it? A. He was there the Sunday evening before the baby died. That is once.

Q. That was the fore part of April, was it? A. I can't state to you when the baby died, so I don't know.

Q. The baby died in April, as I understand it, and the Sunday before the baby died he was there in the evening? A. Yes, sir.

Q. Do you remember any other Sunday evening he was there? A. Yes, sir; I do, but I can't place them. I can't call anything up in my mind to tell you when it was, but I remember him being there evenings, once in a while; he wasn't there every Sunday evening.

Q. How many Sunday evenings was he at your house from the time the baby died to the time Prince Arthur died? A. I wouldn't answer that question; I wouldn't answer it.

Q. Was he there half of the Sunday evenings? A. I couldn't say, because I don't know.

Q. Quarter of them? A. I wouldn't answer that question for I don't know.

Q. Every other Sunday evening? A. I don't know. I can't tell anything about it.

Q. Did you ever know of his being at your house all day Sunday? A. I think not at any time.

Q. When did you say you first became acquainted with Dr. Beers? A. A good many years ago.

Q. When you were married? A. Yes, sir.

Q. About a year and a half or two years before you were married? A. I think it was a little more than a year.

Q. And you were married nearly thirty years ago? A. Thirty years last July.

Q. You became acquainted with him; and did you see him frequently between the time you became acquainted with him and the time you were married? A. Well, I couldn't state how many times I saw him.

Q. I don't ask how many times you saw him, but did you see him frequently? A. Yes, sir.

Q. And after you were married? A. No, sir, I didn't see him frequently after I was married.

Q. Did you see him occasionally after you were married? A. I don't think I saw him — I couldn't state whether it was two or three times. I couldn't tell you.

Q. Two or three times after you were married? A. It was years after I was married before I saw him.

Q. You saw him frequently before you were married, and after you were married it was years before you saw him. You were married about the year 1858. Between the year 1858 and the year 1870 did you see Dr. Beers as often as once a week? A. No, sir, I did not.

Q. See him as often as once a month, between 1858, the time you were married, and 1870 or 1871, when he went to New York to live,— did you see him as often as once a week or once a month? A. No, sir, I did not.

Q. Did you see him as often as once a year? A. I don't know as I saw him at any time from the time I was married up to that date.

Q. Then you don't remember seeing him from the time you were married until 1870, do you say? A. I won't state when it was when I saw him, for I don't remember.

Q. Do you remember when he went to New York to live? A. No, sir, I don't think I knew when he went to New York to live.

Q. Do you know now the date when he did go to New York? A. I know from what he has told me.

Q. You understood that he went to New York to live, and left Boston about the year 1870 or 1871, didn't you? A. I don't know what year it was.

Q. Do you know how long he was in New York? A. I don't know anything about it.

Q. Did you see him during the time he lived in New York? A. I don't know whether I did or not.

Q. You mean by that you haven't any recollection of seeing him, do you? A. I couldn't tell you whether I saw him or not.

Q. That is, you don't remember? A. No, sir.

Q. Did you see him when he came back from New York to live here in this vicinity, either in Boston or near here? A. I don't know whether I saw him directly after he got back or not. I don't know as I know just when he did come back.

Q. When did you first see him after he came back from New York to live? A. I don't know when he came back.

Q. You stated that you met him on the horse-cars, didn't you? A. In 1884.

Q. And you stated that you supposed, in answer to a question by Mr. Crane, that you knew him and he knew you? A. Yes, sir.

Q. Did you speak to each other then? A. No, sir; not going down town we didn't.

Q. Did you go out of town? A. Yes, sir; I came out in the same car with him that afternoon.

Q. Speak to him then? A. He spoke to me.

Q. As recognizing you? A. Yes, sir.

Q. Anybody with you? A. My baby was with me — my youngest child.

Q. Did he say anything to the baby? A. Yes, sir.

Q. In the car? A. Yes, sir. He had the baby on his knee all the way out from Boston, talking to him.

Q. And you talked with him and he talked with you? A. Yes, sir.

Q. You have testified once before that you didn't speak to him, didn't you, and didn't recognize him on the car? A. No, sir; I didn't. I said going in town I didn't recognize him.

Q. Never said that you didn't know him in the car until you got to the depot and he made himself known? A. Not to the depot.

Q. Or to the station? A. I don't know where he made himself known to me. But I know I didn't say that I didn't speak to him going from town, because I did.

Q. You hadn't seen him until then, when you saw him on the car, for how long a time, do you think? A. Well, I don't know that I can tell you just how long. I remember seeing him once when I

lived in Chelsea, but I can't remember how many years before my husband's death.

Q. Well, can you tell about when you saw him the last time prior to this time when you saw him on the car in 1884? A. Can I tell the last time?

Q. The time next before the time that you saw him in the horse-car. A. No, sir, I can't. I can't think of it just now.

Q. Was it within two or three years? Your husband died in 1882, didn't he? A. Yes, sir.

Q. Had you seen him between that time and the time you saw him in the car? A. Not to speak to him.

Q. Where did you see him? A. I saw him on the street, but I hadn't been talking with him.

Q. You knew him? A. I knew it was he.

Q. Any more than once have you seen him on the street? A. I think I have. I won't state the number of times.

Q. That was between the time your husband died and the time you saw him in the horse-car? A. Yes, sir. Between the time my husband died, did you say?

Q. Yes. A. I don't know that I saw him after my husband died until I saw him in 1884. I think it was before my husband's death that I saw him.

Q. Saw him on the street? A. I think so.

Q. You understood that he went to New York at a certain time? A. I don't know that I had any understanding about it then.

Q. Didn't know at the time he went to New York that he was going to New York? A. I don't remember whether I did or not.

Q. He didn't tell you, or you didn't understand from anybody, that he was going to New York to live? A. I don't think I ever talked with anybody about it.

Q. And didn't know that he had gone? A. I knew he had gone some place.

Q. Did you know he had a family? A. No, sir.

Q. Did you know he had sons? A. No, I didn't. He had always said he had one daughter.

Q. You understood that he had a daughter? A. Yes, sir.

Q. Did you know that he lived out at Allston? A. At what time?

Q. Any time. A. After 1884.

Q. After you became acquainted with him? A. After 1884 I knew he lived there.

Q. Did you know he lived there before that time? A. No, sir, I didn't.

Q. Did you ever go out to Allston with him? A. No, sir.

Q. Were you ever out to Allston? A. A number of times.

Q. Many times after 1884? A. No; I don't think I was.

Q. Did you ever try to ascertain whether he was or not a married man? A. No, sir, I didn't. He told me he was not.

Q. You never tried to ascertain anything further than what he told you? Did you go to his house on Appleton Street in Boston? You can remember, can't you? A. I think I was as far as the door at one time. At another time I think I called. I think I called there twice.

Q. Can you tell when it was that you called there? A. No, sir, I couldn't.

Q. Was it before or after Mr. Robinson died? A. Why, it was after Mr. Robinson died.

Q. Any one month that you called there, or one year, or were the calls very near each other? A. No, sir; they were not very near each other.

Q. You knew he lived there? A. Yes, sir; he said so.

Q. Did you go into the house? A. I did at one time.

Q. Sit down in the house? A. I think I did.

Q. Have any business there? A. Yes, sir. He had wrote me that he was sick, and I went to see him.

Q. Both times was he sick when you went there? A. I think he was.

Q. Was that after you saw him in the horse-cars in 1884? A. That was in the year 1885.

Q. Both of these calls in the year 1885? A. I think they were.

Q. Can you tell now what time in the year they were? A. I think it was in the spring. In the early spring, I think.

Q. In the spring of the year? A. I think so. I couldn't tell you what time in the year it was.

Q. Where were you living at that time? A. I think one time I called there I was living — I think it was in Boylston Street.

Q. On what street? A. Boylston, I think.

Q. Where were you living when you called the other time? A. I don't know, I think on Boylston Street. I won't say where it was, because I don't remember.

Q. What time did you move to Somerville? A. In 1885, I think.

Q. What time in 1885? A. I don't remember whether it was in August or in September.

Q. Was it one or the other? A. I think it was.

Q. You lived in Somerville when Willie died, didn't you? A. Yes, sir.

Q. That was the 11th of August, or 12th? A. I don't know when he died. I wasn't there.

Q. Was it 1885? A. He didn't die in 1885.

Q. He died in 1886, didn't he? A. I wasn't there when Willie died.

Q. You don't know when he died? A. I know from what I have been told, that is all.

Q. Did you ever call more than these two times that you have spoken of upon Dr. Beers at his home on Appleton Street? A. Not that I remember of; I may, I don't know.

Q. You have stated that you called at his offices? A. Yes, sir.

Q. When were those calls made at his offices? After 1884? A. Yes, sir.

Q. All of them? A. I called once in company with my husband at the first office. But I can't tell you the date or anything about it, except that I was there.

Q. Did you call with Dr. Beers at his office on the fourth day of August, 1886, — the day Willie was taken sick? A. Did I call with him?

Q. Did you call with him, or did you go to his office with him, or go there and find him there? Were you at his office when he was there? A. Yes, sir.

Q. Did you see him again after that time that month — after August 4th? A. Well, I can't tell you the dates. I won't tell you any dates, because I can't remember the dates.

Q. Had you seen Dr. Beers from that day to this day, to speak to him? A. I saw him the day that Willie was taken sick.

Q. That was the fourth day of August, 1886, wasn't it? A. I can't tell you the date.

Q. Can't tell that date? A. No, sir; I can't tell the day that he was taken sick.

Q. On Wednesday the fourth day of August, 1886? A. It was on a Wednesday.

Q. Have you seen him since that day that he was taken sick, to speak to him? A. Yes, sir.

Q. Dr. Beers? A. Yes, sir.

Q. Where did you see him? A. I saw him at my house the following Sabbath.

Q. Did you speak to him? A. I did.

Q. What did you say to him? A. I said "good-morning."

Q. Anything more? A. I don't think so.

Q. Have you seen him since that time? He was at your house. He left there, did he? A. Yes, sir.

Q. And have you seen him from that time to this day, to speak to him? A. Yes, sir.

Q. Where? A. Going from the jail to Somerville, and from Somerville to the jail.

Q. What occasion was that? A. When I was going out to my hearing in Somerville.

Q. Did he ride in the carriage with you? A. He did.

Q. Did he ride from the jail to Somerville? A. Yes, sir.

Q. And from Somerville back to the jail with you? A. Yes, sir.

Q. How long had you been in jail then when you had your hearing? Do you remember? A. No, sir.

Q. Was it a week or two? A. I couldn't tell you anything about it.

Q. You were arrested on the eleventh day of August, 1886? A. Yes, sir; I was.

Q. How came you and he to ride in the same carriage? Was it at your request, or his, or how did he come to get into the same carriage?

A. I don't know anything about it. I suppose the officers —

Q. You had nothing to do with it? A. No, sir.

Q. You spoke to him? A. Yes, sir.

Q. Talked with him about your arrest, didn't you? A. I don't think we said a great deal to each other.

Q. You were on friendly, kind relations with him, were you not?

FIELD, J. Is there any doubt about the circumstances of their going in the carriage together and going back together, as a fact?

MR. GOODRICH. I don't suppose there is.

Q. (By MR. WATERMAN.) Did you have friendly feelings towards him? A. I think so.

Q. Have you ever had any other than friendly feelings towards him? A. Yes, sir; I have had.

Q. Did you have a sort of a break with him on the 4th of August, 1886? A. I did.

Q. And since that time have you made up with him? A. No, sir; I have never made up with him. I have spoken with him, as I have told you.

Q. You wrote him a letter, didn't you, after you were arrested, from the jail? You wrote him this letter? A. I suppose I did. I told you before that that letter was mine.

MR. GOODRICH. What is the date of the communication?

MR. WATERMAN. There is no date to it. It was written about the 11th of August.

Q. You wrote it about that time, after you were arrested, from the jail, and caused it to be sent out to him, didn't you?

FIELD, J. Do you offer it in evidence?

MR. WATERMAN. Yes, sir.

FIELD, J. On what ground?

MR. WATERMAN. To show her feelings towards him.

FIELD, J. When?

MR. WATERMAN. At that time.

FIELD, J. That was after the alleged homicide in this case?

Mr. WATERMAN. Yes, sir.

FIELD, J. Dr. Beers has not yet been a witness on the stand; and it is not important to show their relations now, unless it has some bearing on the relations before the alleged homicide. We don't see how it is competent.

Re-direct.

Q. (By Mr. CRANE.) On the day of the funeral of Mrs. Freeman, did you go from your house to the house of Mrs. Freeman, or were you there? A. I hadn't left Mrs. Freeman's house.

Q. You didn't go from your house on the day of the funeral to your sister's house, in company with Belle Clough? A. I wasn't at my house. I didn't leave my sister's from the time she died until she was buried, until I went to her funeral.

Q. You went over on Monday evening, and you remained there at the house until the burial of your sister? A. Yes, sir.

Q. And didn't return home during that time? A. No, sir, I did not. I don't know of being out of my sister's house from the time I went there until I went to her funeral.

Q. You spoke about Dr. Beers being there at your sister's and seeing her during the time she was sick. Do you know when he became acquainted with your sister? How long had he known her? A. Well, it must have been some time in 1884; the first time she was at my house after he commenced to come to see me.

Q. Did you ever go to Mrs. Freeman's in company with Dr. Beers? A. No, sir; I did not.

Q. One question more. On Sunday before Mr. Freeman was taken sick, you went from your house to the city with Dr. Beers, you said? A. And Arthur and Gracie, yes, sir.

Q. Where did you go? A. I promised the children to take them into the Public Gardens, and I rode in as far as Park Square and returned on the same car; didn't get off of it at all.

Q. Now you spoke about asking Mr. Freeman to take Arthur to see the soldiers. Where? A. Over to Charlestown.

Q. When? A. On the 17th of June.

Q. What was the celebration that day? A. The 17th of June.

Q. That was the day of the celebration there? A. Yes, sir.

Q. On the morning that Mr. Freeman was taken sick in the afternoon, did you see him before he went to his work? A. No, sir.

Q. Did you get his breakfast? A. No, sir.

FIELD, J. She has testified that she was not up when he went away; but there is no objection to your making it certain if you have any doubt about it.

Q. (By Mr. CRANE.) Now who did get the breakfast for Mr. Freeman? A. Mr. Freeman always got his own breakfast in the morning. At the time he came to the house my daughter was doing the house work, and she said to her uncle that she couldn't get up so early in the morning to get his breakfast. He told her he didn't want her to, and he always got up and got his breakfast and Charlie's.

Q. What did you do the night before or at any time towards the preparation of the breakfast? A. I never had anything to do with it except Sabbath mornings, when I always got the breakfast for Lizzie. But at any other time during the week I had nothing whatever to do with the food. Lizzie did it.

Q. What did she do the night before? A. I suppose that she did as she was in the habit of doing. She always sat the table the night before and had everything ready for them, and he made the coffee in the morning.

Q. Who made the coffee in the morning? A. Mr. Freeman.

Q. Was there any day during the time that Mr. Freeman was there that you got up and got breakfast for him? A. No, sir; I never did. I never saw Mr. Freeman in the morning.

Q. Do you know what time he left? A. No, sir; I don't know what time he left.

Q. You say he and Charlie had their breakfast together usually? A. Yes, sir. Willie ran one trip into Boston, and then came home for his breakfast. He never had breakfast with them, but with Lizzie and the other children and myself.

Q. Who drank the coffee? A. Mr. Freeman and Charlie.

Q. Any others in the family? A. I don't remember whether Willie did or not. Sometimes I did, and sometimes I did not.

Q. Who made the coffee? A. Mr. Freeman.

Q. Willie, you said, took a trip before breakfast? A. Yes, sir; he always did.

Q. And you took breakfast with him after his return? A. Yes, sir.

Q. What time did you usually have your breakfast? A. Usually about seven.

MRS. LOUISA D. BATES — *sworn*.

Q. (By Mr. CRANE.) You are the wife of Rev. Mr. Bates who testified? A. Yes, sir.

Q. You reside in East Boston? A. Yes, sir.

Q. When did you first become acquainted with Mrs. Robinson? A. In 1872.

Q. And when with Mrs. Freeman? A. About that time.

Q. She was a servant in your family, was she? A. She lived in my family.

Q. How long? A. About three years.

Q. Did you see them together frequently — Mrs. Robinson and Mrs. Freeman? A. Very frequently.

Q. When did you become acquainted with Mr. Freeman? A. I never was much acquainted with Mr. Freeman; hardly any, except to know that he was a man of good habits.

Q. Were you present when they were married? A. Yes, sir.

Q. Married at your house? A. Yes, sir; in South Boston.

Q. How frequently have you seen Mrs. Robinson since? A. I don't think that I have seen her more than once since; shortly after her husband died.

Q. And how frequently did you see Mrs. Freeman? A. Since her marriage with Mr. Freeman?

Q. Yes. A. I saw her but a few times.

Q. What were the relations between the two sisters? A. There seemed to exist a very strong sisterly affection between the two.

Q. They attended church together? A. Yes, sir.

Q. See them very frequently? A. Yes, sir.

Q. You didn't see Mrs. Freeman when she was sick, I believe? A. No, sir.

Cross-examination.

Q. (By Mr. WATERMAN.) Mrs. Freeman was a servant at your house for about three years? A. Yes, sir.

Q. You heard her, I suppose, during that time, speak of her sister, Mrs. Robinson? A. Very frequently.

Q. Did you at one time hear her say that she wished she would keep away from her? A. I have no remembrance of it.

Q. Anything like that? A. No, sir.

Q. That she thought that she didn't want to have her come there, for some reason or other? Didn't want to associate with her? Anything of that kind? A. I have no remembrance of it.

Q. You never have told anybody that that was so? A. I don't remember that I ever have.

Q. Ever heard anything that is like that, I mean. I don't mean particularly the words, but anything in substance of that kind? A. No; unless it might have been in this way: Mrs. Robinson was very needy at the time, and Annie used to help her with her wages; and Annie would sometimes get almost discouraged, and then again she would say, "It is nothing more than my sister is willing to do for me, and I am willing to do it."

Q. (By FIELD, J.) What time did she work for you? A. She came there in 1872, and stayed there about three years.

Q. 1872 to 1875? A. Yes, sir.

Recess for five minutes.

CHARLES H. ROBINSON — *recalled.*

Q. (By Mr. CRANE.) Do you remember the morning that your uncle was taken sick in the afternoon? A. Yes, sir.

Q. Who got your breakfast that morning? A. My uncle did.

Q. Do you remember whether you and he sat at the table that morning? A. Well, I can't exactly remember whether we sat together that morning or not.

Q. Who usually got your breakfast? A. He always got it.

Q. Always? A. Yes, sir.

Q. What time did you usually leave in the morning? A. I used to leave about half-past six.

Q. And what time would Mr. Freeman leave? A. He would go a little before that; probably six or quarter past.

Q. And who usually sat at the table with you and him? A. Nobody.

Q. You took your breakfast before your mother got up? A. Yes, sir.

Q. When did Willie take his? A. I suppose he used to take his when he got back from Boston.

Q. Did he make an early trip? A. Yes, sir.

Q. Do you know what time he started? A. He used to have to get out before five.

(*Cross-examination waived.*)

PROF. EDWARD S. WOOD — *recalled.*

Q. (By Mr. GOODRICH.) Dr. Wood, assuming that a person had taken a dose of arsenic which produced the effects which have been described as having been experienced by Freeman, namely, that if upon leaving home he vomited violently, and that vomiting continued, and he felt distressed and pained at his stomach, how long in your opinion would he be able to continue at manual labor? A. Will you repeat the first part of the question?

Q. Assuming that he had taken a dose of arsenic which produced violent vomiting, which was continued during the day, producing distress and pain in the stomach, severe and violent headache, how long would he, in your judgment, be able to continue to perform manual labor?

MR. WATERMAN. I object to that, unless Dr. Wood is an expert in manual labor.

Q. (By Mr. GOODRICH.) Let me ask you if you consider yourself competent to answer that question? A. Yes, sir.

Mr. WATERMAN. I don't see why it is not a question for anybody to answer. I suppose what Mr. Goodrich wants to ask him is what would be the effect upon his stomach.

FIELD, J. I don't know whether Mr. Goodrich means to assume that the vomiting was produced by the presence of arsenic.

Mr. GOODRICH. Certainly.

FIELD, J. The witness may answer it if he can.

A. It is possible for him to continue labor for a number of hours; but it is very unusual, and I would not expect it.

Q. (By Mr. GOODRICH.) Would you say it was probable? A. I wouldn't say it was probable.

Q. And where would you make the limit of probability — for how long a time? A. For this reason: That the effect, so far as the first symptoms are concerned, and so far as delaying symptoms in arsenical poisoning are concerned, depends upon several causes. First, upon the size of the dose; second, upon the condition of the stomach when the dose is taken; thirdly, upon the general strength and peculiarity of the patient who has taken it. And the suddenness of the symptoms and their severity vary according to the variations in these conditions. A very large dose — a table-spoonful, for instance — may be taken of solid arsenic upon a full stomach and the symptoms be delayed for an hour, and then with the first vomiting most of the arsenic thrown off; so that the effect then is due merely to a moderate dose. So that in this case it is possible for the patient to be able to do a certain amount of labor, even though the amount remaining is a fatal dose, for eight or ten hours. There are cases recorded in which the delay in symptoms has been as long as ten hours; but they are rare cases, and I should not expect it probable. —

Q. And in such case you would consider it highly improbable that he would be able to work as late as three o'clock in the afternoon?

A. That would be the case in a very large percentage. It is only in a possible condition.

Q. So large as to make any case quite exceptional? A. Yes, sir.

Q. And improbable? A. Yes, sir.

Cross-examination.

Q. (By Mr. WATERMAN.) Then you say it would be possible that he might continue labor for several hours, say from seven o'clock in the morning until three o'clock in the afternoon? A. There are cases recorded of eight or ten hours.

Q. It would depend upon the circumstances, wouldn't it — the condition of the system? A. Chiefly upon the size of the dose and the condition of the stomach at the time it was taken — the principal conditions.

Q. (By FIELD, J.) Would it depend at all upon the amount that was vomited up? A. Yes, sir. But if the stomach was full, the most of it would be vomited up as a general rule, — full at the time it was taken.

Q. (By Mr. WATERMAN.) Well, the symptoms that have been given to you by the question of Mr. Goodrich, — were they consistent with a comparatively small dose? You heard the symptoms as they were manifested by Prince Arthur?

FIELD, J. Suppose you repeat them in your question. It makes it more definite.

Q. (By Mr. WATERMAN.) You heard about his being taken sick on his way to his work, between six and seven o'clock in the morning? A. Yes, sir.

Q. That 22d of June; and being sick at his work, and returning about three o'clock in the afternoon. And then you heard what has been stated of the symptoms while he was sick, have you, doctor? A. Yes, sir.

Q. Well, from this evidence which has been put in in regard to that, which you heard, what would be your opinion as to whether or not there had been repeated doses of arsenic?

FIELD, J. I think you ought to put into your question the facts on which the witness gives an opinion.

Q. (By Mr. WATERMAN.) Well, doctor, we will suppose that Mr. Freeman went to his work at South Boston on the 22d of June about seven o'clock in the morning, that he was taken with vomiting going there, he was sick and vomited while he was at work, he stayed there until about three o'clock in the afternoon and was obliged to leave on account of his vomiting, and returned to his home and went to his bed. That was on Monday; and between that time and Saturday night he had symptoms of burning — a burning sensation in his stomach and throat, and was reduced in strength, and continued in that way substantially, which symptoms were intermittent from that time until about twelve o'clock on Saturday night. Would you say that those symptoms were consistent or indicated a repetition of arsenic being given? A. They are consistent with that, but do not indicate it necessarily.

Q. They are consistent with it? A. They are consistent with it, and also consistent with a large dose. No opinion can be formed with certainty as to whether the death was caused by one dose or by several small doses, *i. e.*, small poisonous doses, so called. The symptoms are entirely consistent with either.

Q. Would the symptoms of his first vomiting — severe sickness — indicate a small or large dose necessarily? A. No, sir. A small poisonous dose would produce vomiting.

Q. In the same way? A. Yes, sir.

Q. Then I understand you to say that he might have taken a large dose, in answer to the question put to you by Mr. Goodrich, — he might have taken a large dose of arsenic that morning and vomited, and thrown off nearly all of it, and still have been able to remain sick at his work until three o'clock? A. It is possible; yes, sir.

Q. That there would be arsenic enough left then to continue the symptoms of poisoning? A. Yes, sir.

Q. You have spoken about the different conditions of the stomach, — whether there had been food recently taken. That would make a difference? A. Yes, sir; and whether the stomach was healthy or diseased.

Q. I understand you to say that a large dose of arsenic taken as in this case might have been nearly all expelled by vomiting? A. It may or may not be.

Q. After his having his breakfast? A. That would depend upon the condition of the stomach. If arsenic was taken upon a full stomach, the majority of it might be intimately mixed with the food; and of course the most of the food is expelled at the first vomiting, and that would necessarily carry away with it the major portion of the arsenic.

Q. Do you see anything in the facts as put to you by the question of Mr. Goodrich in this case inconsistent with arsenic poisoning? A. No, sir.

Re-direct.

Q. (By Mr. GOODRICH.) Doctor, ordinarily a dose of three or four grains would be fatal? A. Yes, sir.

Q. Usually? A. No, sir; not usually.

Q. What would be the amount? A. Three grains is called a fatal dose; but ordinarily vomiting takes place so quickly that most of it is expelled, and only a small dose which produces vomiting and purging remains. But recovery generally follows from those small doses, although it may prove fatal.

Q. But if a larger dose than three or four grains was given, then notwithstanding the vomiting the result would be likely to be fatal? A. Yes, sir; because more would be liable to remain.

Q. And in that case with a larger dose, leaving after vomiting enough arsenic to produce a fatal result, the man would become incapacitated from labor before afternoon? A. Yes, sir; because there is very much prostration after vomiting, and the man is too weak to work.

DR. J. T. G. NICHOLS — *recalled.*

Q. (By Mr. GOODRICH.) Dr. Nichols, assuming that a fatal dose of arsenic was received in the stomach of a man, say at half-past five

or six o'clock in the morning, whether you would expect to find him in a condition fit to work in the afternoon? A. No, sir; I shouldn't.

Q. If such was the case, would it be quite exceptional? A. From my reading and study, I should say it would be exceptional.

Q. And highly improbable? A. It would certainly be exceptional, and certainly improbable in that it is exceptional.

Cross-examination.

Q. (By Mr. WATERMAN.) You would expect to find him vomiting, wouldn't you? A. After taking a dose of arsenic of any considerable size; yes, sir, I should.

Q. And the sickness from it you would expect to continue through the day, wouldn't you? A. Yes, sir.

Q. So that if the man undertook to work, you would expect him to be in a condition that he couldn't work, would be obliged to stop work, wouldn't you? A. Yes, sir; ordinarily I should.

Q. And the question of how much work he did would depend upon how sick he was? A. Certainly, sir.

REBUTTAL TESTIMONY FOR THE COMMONWEALTH.

Mrs. SUSAN S. MARSHALL — *recalled*.

Q. (By Mr. STEVENS.) You have testified that when you were over there Dr. Beers came once? A. Twice.

Q. And on one occasion he brought a bottle of wine? A. A bottle of something.

Q. During the illness of Mrs. Freeman. Now during either of these times that he was there, was either of these occasions the day when she died? A. Yes, sir.

Q. They were? A. Yes, sir.

Q. Now you have heard Mrs. Robinson testify that on every occasion except the last day, the day of her death, he went into the room where she was. Did you hear that testimony? A. I did.

Q. Now were you there when Dr. Beers came? A. I was.

Q. And there when he went away? A. I was.

Q. On either of these occasions did he go into the room where Mrs. Freeman was? A. Not to my knowledge.

Q. Was he in the room with you all the time? A. No, sir.

Q. How many rooms were there? A. Two. There were three rooms; the kitchen, and the sleeping room, and a side room.

Q. I want to know whether you know whether Dr. Beers went into that room where Mrs. Freeman was? A. I do.

Q. You say he did not? A. I say he did not.

Cross-examination.

Q. (By Mr. GOODRICH.) So far as you know? A. I was present in the room with Mrs. Freeman, and he did not come in.

Q. (By FIELD, J.) You mean present in the room with Mrs. Freeman while she was lying in bed? A. I was.

DR. J. T. G. NICHOLS — *recalled.*

Q. (By Mr. STEVENS.) Did you hear Mrs. Robinson's testimony yesterday? A. No, sir.

Q. Did you make any such statement to her, during the illness of Mr. Freeman, or on the last day, that you said he had had a great deal of trouble, he had laid down to die and he would die, and you couldn't lay your finger on any particular trouble,— or language to that effect? A. I probably did use language to that effect, sir. I don't think in those words.

Q. Did you say that he had had a great deal of trouble and had laid down to die? A. I suppose on that last day I told her that I thought he was going to die very soon. I am very certain that I told her that.

Q. I want to ask if you gave as a reason for his death the fact of his having had trouble? A. I probably did, as I remember writing that to Dr. Davison as the only reason I could give — that his trouble was one element in his sickness.

Q. Do you remember a conversation you had with him in which he said if he died he wished Mrs. Robinson to have the boy afterwards? A. Yes, sir; I remember generally that conversation.

Q. Was there anything said in that conversation by him that he desired his sister to have Arthur, and did Mrs. Robinson then ask you to ask him who his sister was — which sister? A. That is not my recollection of the conversation. It was that he wished Mrs. Robinson to have charge of the child.

THOMAS BARNES — *sworn.*

Q. (By Mr. STEVENS.) You live in South Boston? A. I have lived there.

Q. Did you know Freeman? A. Yes, sir.

Q. How long did you know him before he died? A. Since 1876.

Q. And did you see much of him from that time up to the time of his death? A. Yes, sir.

Q. He worked for you several years? A. Four or five years.

Q. Now how much did you see of him from the time his wife died up to the time he died? A. Four or five times a month.

Q. What was the condition of his health after she died, compared with what it was before she died? A. I never saw any difference in it.

(Cross-examination waived.)

GEORGE A. CRAWFORD — *recalled.*

Q. (By Mr. STEVENS.) You knew Mr. Freeman how long? A. From about the first of October, 1884, when I took charge of the Broadway Church, up to the time of his death.

Q. How often did you see him? A. He was very constant in his attendance at the social meetings, and I saw him very frequently.

Q. How often after his wife died? A. Very frequently then, because I was interested both in securing him a place to live, and in securing him employment after the fire that threw him out of work.

Q. What was his condition as to health after his wife's death, in comparison with what it was before? A. I saw no change.

Cross-examination.

Q. (By Mr. GOODRICH.) Do you know what time he left your parish after his wife's death? A. Immediately.

Q. And went to live in Somerville? A. No, sir; in Cambridge.

Q. You didn't see so much of him after that time? A. He came over to church several times, and when he was out of employment also came to see me. I remember seeing him; and I also saw him in connection with the funeral of the little girl, and rode with him to the grave.

Q. You had some conversation with Mrs. Robinson before the death of her sister? A. Yes, sir; several conversations.

Q. And in regard to the children and the disposition to be made of them? A. Yes, sir.

Q. Did she at any time state anything to you in regard to the subject of the insurance policy? A. No, sir; never heard of it until her arrest.

MRS. CATHARINE MELVIN — *recalled.*

Q. (By Mr. STEVENS.) You were present at the funeral of Mrs. Freeman? A. Yes, sir.

Q. You heard the testimony of Dr. Bates? A. Yes, sir.

Q. In which he testified that Mrs. Freeman, Mrs. Robinson, Willie and Lizzie rode together from the house to the church? A. Yes, sir.

Q. Was that so? From the church to the grave? A. That was not so. Lizzie rode with me. Lizzie and Miss Clough and my mother and I rode to the grave.

Q. Now do you know whether there was any change made in going back? A. Yes, sir; because my mother and I went to Charlestown.

Q. You don't know what that change was? A. I know that they didn't ride with me.

Q. (By FIELD, J.) From the church to the cemetery, at the burial of Mrs. Freeman, Lizzie, Miss Clough, your mother and yourself rode to the cemetery? A. Yes, sir.

Q. Your mother and you then left, and you don't know who rode together from the cemetery home? A. No, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) Mrs. Robinson and Mr. Freeman were not together? A. I couldn't say.

Q. But Mrs. Robinson at all events did not ride with Miss Clough? A. No, sir; not from the church to the cemetery.

BELLE CLOUGH — recalled.

Q. (By Mr. STEVENS.) You have testified. You said certain conversation took place in the carriage with you and Mrs. Robinson and Lizzie? A. Yes, sir.

Q. Was that in going from the church to the graveyard, or from the graveyard back to the house? A. From the graveyard back to the house.

Cross-examination.

Q. (By Mr. GOODRICH.) And not on the way over to Cambridge then, was it? A. No, sir.

FIELD, J. Chelsea?

The WITNESS. It was from the graveyard back to Mr. Freeman's house, in the carriage.

GEORGE A. CARLETON -- sworn.

Q. (By Mr. STEVENS.) You are a police officer of Somerville? A. I am, sir.

Q. I don't know but you arrested Mrs. Robinson? A. No, sir; I did not.

Q. You saw her after she was arrested? A. I did.

Q. Where was it, and when? A. Well, the day that she and Dr. Beers were arraigned for the murder of Lizzie in the police court in Somerville, in taking her from Somerville to Cambridge to the jail,

she made a remark like this, "You think you are pretty smart in arresting this man, but you haven't got the right one yet."

Mr. GOODRICH. I object to this. This was after her arrest in August, 1886, a year or more after the death of Freeman, and related wholly to another matter.

FIELD, J. I understood you to say in the arraignment for the murder of Lizzie.

Mr. WATERMAN. Is it excluded?

FIELD, J. If it related wholly to the charge of the murder of Lizzie, we don't see how it is competent.

(Cross-examination waived.)

HENRY W. O'HARA — *sworn.*

Q. (By Mr. STEVENS.) Were you the governor of the Colony of which Prince Arthur Freeman was a member when he died? A. I was.

Q. Did you see Mrs. Robinson after that? A. I did.

Q. Were you here yesterday? A. Yes, sir.

Q. Did you hear her testify yesterday that the first time that she knew of the policy of Prince Arthur Freeman having been assigned to her was on Sunday after he died, when she had information from you? A. I didn't hear her, sir.

Q. Did you impart any such information to her? A. No, sir.

Q. Did you ever talk with her about it? A. No, sir.

Q. Did you give her any money at any time? A. I did.

Cross-examination.

Q. (By Mr. GOODRICH.) Did you go out to see Mrs. Robinson the day after Mr. Freeman's death? A. No, sir.

Q. How soon after? A. I went to see Mr. Freeman the day after he died, not knowing he was dead.

Q. I want to ask you if you saw Mrs. Robinson at her house the day after Mr. Freeman died? A. I did.

Q. It was not your purpose in going there to see her? A. No, sir.

Q. Seeing Mrs. Robinson, what did you say to her about the insurance? A. Prince Arthur Freeman's insurance?

Q. Yes. A. Nothing whatever.

Q. Did you know anything about it then? A. I did.

Q. Did you know it had been transferred? A. I had it from Mr. Freeman that it was.

Q. Was that the only way you knew it? A. That was the only way.

Q. Governor Dudley Colony, was it? A. Yes, sir.

Q. You had had no notification at that time from the Supreme Colony, or from Mr. Shepard, that the assignment had been reeorded?

A. None, sir. That information wouldn't be imparted to me.

Q. Who would it be imparted to? A. The secretary.

Q. And you hadn't even heard of it at that time? A. No, sir.

Q. You had no reason to suppose that the insurance was not all right at that time? A. None whatever, sir.

Q. If any conversation was had between you and Mrs. Robinson in regard to the insurantee, what would have been the facts of the case which you would have communicated to her? A. The facts of the case would have been that I had spoken to Mr. Freeman previous to his last sickness in reference to the matter. The reason I did it was this: As the presiding officer of the Colony I deemed it my duty to caution him, knowing that his wife had died.

Q. Never mind the reason. Tell what was done, in consequence of anything that you said. A. I suggested to him that he have it changed and made over to secure it to his children.

Q. Did it appear to strike him as a new and original proposition? A. No, sir.

Q. How did it? A. I think he never thought of it until I suggested it to him.

Q. How long was that before his death? A. Probably two months. I can't give the exact time.

Q. Was it about the time that it was done? A. Some time before that I was informed that it had been done.

Q. That it had been reeorded? A. Yes.

Q. But it was not reeorded until long after it was done, was it? A. That I can't say. I have no knowledge.

Q. You say about the 13th of May? A. I can't recollect the date, sir.

Q. At all events, he said he hadn't thought about the matter until you suggested it to him? A. No, sir.

Q. And you advised him to have some transfer made? A. I did.

Q. Have some beneficiary designated? A. Yes, sir.

Q. And he hadn't thought of the subject of having some beneficiary designated in place of his deceased wife? A. That was the impression he gave me.

Re-direct.

Q. (By Mr. STEVENS.) When did you have this conversation with him? A. Probably two months before he died, sir.

Q. In the month of April? A. Probably April. Yes, sir; April or May.

Q. How long after his wife died? Do you know? A. That I can't say. I had not the date of her death.

Q. You had heard of her death? A. Yes, sir.

Q. Where was this conversation that you had with Prince Arthur? A. In a Colony meeting, sir.

Q. Did you have any conversation with him as to whether it would be necessary to have an assignment made? A. I did.

Q. Now did he tell you whether or not he supposed it was necessary to have an assignment made?

FIELD, J. Why not have the whole conversation?

Q. Yes, sir: the whole conversation. A. I had heard among the members that Mrs. Freeman had died, and I supposed the insurance had been made payable to his wife; and I suggested to him one night at a Colony meeting that he should protect his children by having some one designated as beneficiary in her place. He asked me what I would suggest; and I suggested that he have it made to some person in whom he had confidence, in trust for his child.

Q. What did he say then? A. He simply said that he would attend to it.

Q. Well now, before that time had he said anything to you about it? A. No, sir.

Re-cross.

Q. (By Mr. GOODRICH.) Was it your recollection that it was speedily attended to by him? A. I shouldn't call it speedily.

Q. I don't mean the record which came about the time of his death. But there was an assignment made earlier in May, wasn't there? A. Probably in May, — or rather before May. Probably two months before his death.

Q. Did you know when the assignment was made? Did you hear of that having been made? A. I heard it from him.

Q. Did you hear that fact that there had been an assignment made — did you hear that from him shortly after this conversation of yours? A. Probably two months after the first conversation.

Q. That is your general recollection? A. That is my recollection, sir.

Q. And at that time whether it had been recorded or not you don't know? A. I have no means of knowing.

Q. And that was about the time of his death? A. Just before his death. If my memory serves me, probably the last meeting which he attended previous to his death.

Q. At that meeting he told you — A. That it had been attended to, but he didn't say in what way.

Q. And that is the first time that you knew that it had been attended to? A. Yes, sir.

Q. A week before his death? A. Yes, sir.

Re-direct.

Q. (By Mr. WATERMAN) At the time you suggested it to him in the Colony, do you know whether the baby was living? A. No, sir; I do not.

Mrs. MARION H. CLARK — *sworn.*

Q. (By Mr. STEVENS.) You are the daughter of whom? A. Isaac N. Tucker.

Q. You are the granddaughter of Dr. Beers? A. Yes, sir.

Q. You reside in Charlestown? A. Yes, sir.

Q. Your grandfather came from the West probably what year — I mean from New York? A. He came home in 1883. He has been to New York several times, and returned. He came home in 1883.

Q. (By FIELD, J.) Who? A. My grandfather.

Q. Dr. Beers? A. Yes, sir.

Q. Where do you mean by "home"? A. He came to my home.

Q. Where is that? A. In Allston.

Q. Came to Allston when? A. In 1883.

Q. (By Mr. STEVENS.) How long did he live there? A. He lived there until September — I can't give you the exact date, but it was about the 20th — of 1884.

Q. Were you living there then? A. Yes, sir.

Q. Do you know what his practice was about being at home on the Sabbath? A. Until the summer — until July he was home every Sunday, and generally went to church with us, and was at home all day and in the evening. After July I think he was there, with the exception of one or two Sundays, every Sunday, and was always at home about six o'clock if he went out. He generally went to church with us, and never went out in the morning but once. If he went out in the afternoon, as he did a few times, — perhaps three or four, — he always returned about six o'clock.

Q. Did you know of his going to Mrs. Robinson's in Cambridge? A. I never heard of Mrs. Robinson.

Q. Now when did he come to live with you again? A. He came in April, 1886.

Mr. STEVENS. Well, I don't care about that.

Q. (By FIELD, J.) He lived with you at Allston from what time in 1883? A. I can't tell you what time in 1883.

Q. Spring, summer or fall? A. I don't know even that.

Q. Until what time in 1884? A. Until September 20 something. I can't tell exactly what day of the month. September of 1884.

Cross-examination.

Q. (By Mr. GOODRICH.) In 1883 and 1884, what was your grandfather's business? A. He was a physician.

Q. Where was his office? A. Well, I can't tell you. I am sure I don't know.

Q. Although he was living with you, you don't know where his office was? A. No. I never had any occasion to visit him at his office.

Q. Any specialty of practice? A. Not that I know of.

Q. General practice? A. General practice.

Q. You never knew then where his office was? A. No. There was no occasion of it.

Q. Did he advertise any proprietary medicines that you know of? A. I don't know of his advertising at all.

Q. Did he have some specialties in the way of antidotes for opium and for intemperance? A. I have heard something about it, but I never saw any advertisements to that effect.

Q. But that he had such articles you know? A. I know that he — I have heard him say that he made them, and heard him say that he gave them. I never saw any of the medicine.

MISS LILLIAN S. TUCKER — *sworn.*

Q. (By Mr. STEVENS.) You are the sister of the last witness? A. Yes, sir.

Q. Granddaughter of Dr. Beers? A. Yes, sir.

Q. Do you remember when he came to live with your father in Allston in 1883? A. No, sir; I don't remember anything about it.

Q. You remember his coming to live there? A. Yes, sir.

Q. Do you remember how long he remained there? A. No, sir.

Q. Did he remain there during that year? A. Yes, sir.

Q. And during the most of 1884? A. I can't remember.

Q. While he did live there, do you remember what his practice was about being at home on the Sabbath? I mean spending the Sabbath at home. A. Yes, sir. He always went to church with us on the Sabbath.

Q. Was he living with you after 1886? A. No.

(Cross-examination waived.)

Q. (By FIELD, J.) How far is it from Allston to Harvard Square? A. I think about a mile and a half.

Mrs. CHARLES F. BEERS — *sworn*.

Q. (By Mr. STEVENS.) You are a daughter-in-law of Dr. Charles Beers? A. Yes, sir.

Q. And you are the wife of Charles F. Beers? A. Yes, sir.

Q. Who is a foreman in one of the departments of the Boston "Journal"? A. Yes, sir.

Q. Mrs. Beers, you lived at one time in Appleton Street, Boston? A. Yes, sir.

Q. When was it? A. I lived there in September of 1884, I think it was.

Q. That was at the time when your husband's father came from Allston? A. Yes, sir.

Q. How long did you live there? A. Lived there I think until 1886. I don't know. We lived there two years. I don't remember dates, any way. I can't tell you much about dates.

Q. How long did you live there after September, 1884? A. We lived there in September, and we lived there a year from the next following April.

Q. That would be April, 1886. The family consisted of whom? Your husband, and Dr. Beers and his wife? A. Yes, sir.

Q. At that time your family consisted of yourself, your husband, Dr. Beers and his wife? A. Yes, sir.

Q. While you were there did Mrs. Robinson ever call? A. There was a lady came there who said she was Mrs. Robinson.

Q. When was it? A. I could not tell you when it was, I don't know.

Q. Did she tell you where she lived? A. She said she lived in Cambridge.

Q. Will you state the conversation?

[Objected to.]

FIELD, J. She said they lived there from September, 1884, until September, 1886.

Q. Do you remember whether this was in 1884, 1885 or 1886? A. It was the second winter that we lived there.

Mr. STEVENS. That would be the winter of 1885-86.

FIELD, J. If they went there in September, 1884, the first winter would be that of 1884-85 and the second winter would be that of 1885-86. The winter of 1885-86 is after the charge in this case.

Mr. STEVENS. The witness, Mrs. Robinson, testified that she never knew that Dr. Beers was a married man until long after that. I want to show that she knew perfectly well that he was not a single man.

Mr. GOODRICH. When?

Mr. STEVENS. I don't remember what the time was. I don't know when this interview took place. But I want to show that she knew perfectly well that he was a married man.

The WITNESS. My husband could probably give you the dates. I don't know the dates.

FIELD, J. Our difficulty is in seeing how it is material to this case whether she thought he was a married man or not. Of course, if she were being tried for some other thing, the question whether she was receiving the attentions of a married man who had a wife living in Boston, or whether she believed him to be a widower, would be very important in regard to her general character for decency and that; but how in this case what her relations were with him, whether they were proper or improper relations, we do not now see how it affects this case.

Mr. STEVENS. If your Honors will hear me, I will see if I cannot convince the court that I am right. Practically the materiality is this. I have no doubt from the questions which have been asked the prisoner that an attempt is to be made to throw a very strong suspicion upon Dr. Beers. This has a bearing upon the testimony which she gave that Dr. Beers did come there and palm himself off as a single man, and wished to marry her, when really he had a wife living and she knew nothing about his having a wife living; put in for the purpose of presenting Dr. Beers in such a light as to make it probable he was a man of such character, had such opportunities and had such possible motives, perhaps wanting to marry her, that he committed this crime; and she says that she always thought so, and she says she thought so up to a very long time after the time that Freeman died. That is in the testimony. Now as affecting her credibility, if we show that that is not true, that she did actually know in the winter of 1885-86 that he was a married man and that he had a wife, and she went to the house and must have known it from the conversation that took place there, it seems to me that goes a good way towards qualifying and contradicting her testimony. That is, she testifies that from beginning to end she supposed he was not a married man. It may be of consequence, and I suppose from what your Honor intimates, we might put in evidence for the purpose of showing that she knew he was a married man, for instance, when Prince Arthur was sick, in the summer of 1885. She says that she supposed he was a single man then and she continued to suppose he was a single man long after that. I ask to introduce evidence that she knew some months before that that he was a married man, for the purpose of affecting her credibility, for the purpose of affecting her testimony that she supposed he was a single man when Prince Arthur was sick.

Mr. GOODRICH. The defendant has testified that she did not know

that Dr. Beers was a married man, but supposed him to be a single man until long after Mr. Freeman's death, which occurred on the twenty-eighth day of June, 1885. The witness is now asked a question with a view to elicit, it seems to me, evidence that she became informed of that fact in the following winter.

FIELD, J. Suppose the evidence should be that she spoke of Dr. Beers as if he were a married man, in a way implying previous knowledge, how can you say of the conversation that from it it might be inferred that she knew it before she came there?

MR. GOODRICH. That would be a long time after the death of Freeman. We do not object to any evidence which, in the judgment of the court, is competent to show that before the death of Freeman she had any reason to believe that he was a married man. We rather invite that issue.

MR. STEVENS. I have another witness who, I suppose, would fix the time a little more accurately.

MR. GOODRICH. For the purpose of saving time, we will withdraw the objection. We would like to meet that issue.

Q. (By MR. STEVENS.) Now, what was the conversation? A. She asked if Dr. Beers was in, and I said he was not. I said, "Mrs. Dr. Beers is in, would you like to see her?" She said, no, she was going away to-morrow, and would I please tell the doctor "to come over to my house in Cambridge."

Q. Did you tell Dr. Beers when he came back? A. I did. And I went down and told Mrs. Dr. Beers that Mrs. Robinson had called to see the doctor.

MRS. C. C. BEERS — *sworn*.

Q. (By MR. STEVENS.) You are the wife of Dr. Beers? A. Yes, sir.

Q. You have been married to him about how long? A. I have been married to him fifty-three years.

Q. How old is he? A. He will be seventy-six the 24th of next June.

Q. You lived in New York many years? A. Yes, sir.

Q. You went there in 1870, I think? A. Well, I cannot say; as nearly as I can remember.

Q. And remained until 1883. When you came back from New York, you went to reside at Allston with your son-in-law, Mr. Tucker, — you and your husband? A. Yes, sir.

Q. You remained how long? A. I think it was in the spring that we went there, and we remained through the summer and the following winter, and the next summer after that we went to housekeeping on Appleton Street.

Q. (By FIELD, J.) When did you say you and your husband came to Allston to reside? A. It was in 1883.

Q. What time in 1883? A. It was in the spring of that year.

Q. How long did you and your husband live in Allston after you went there? A. From that time until the following summer, in September.

Q. Until September, 1884? A. Yes, sir.

Q. Then where did you go? A. We took this house, 41 Appleton Street; went there the 22d of September.

Q. (By Mr. STEVENS.) You lived there how long? A. We went there in September and we left there in April; it was over a year, going on two years.

Q. When you resided in Allston, where did your husband have his office? A. Well, he had no office then; he had just come from New York.

Q. When did he first have an office, do you remember? A. He first had his office when we went into Appleton Street.

Q. An office in the house? A. Yes, sir.

Q. Do you remember while you were in Allston what his practice was about being home on the Sabbath? A. Of course; I ought to know. He was always at home Sabbaths. Sometimes we used to go out to walk. As a general thing we went to church in the evening and often in the morning.

Q. Did you know where he was the entire day? A. If he went out to walk, I did not know just where he went.

Q. I mean ordinarily did you know where he was? A. Yes, sir; I did.

Q. Now, when you removed to Appleton Street, what was his practice about being home on the Sabbath? A. Why, he was always home.

Q. What was his practice on the Sabbath while you lived on Appleton Street? You lived there in 1885. A. Very often he went to church in the morning.

Q. Where? A. We went to Berkeley Street Church, because it was very near where we lived.

Q. Then what was his ordinary method of spending the Sabbath? A. Well, he spent it at home.

Q. You went to church in the morning? A. Yes, sir. I could not say we went every Sunday.

Q. No. But I am speaking of the ordinary practice during the summer of 1885? A. Yes, sir; that was the ordinary practice.

Q. Do you remember whether or not he was away during that summer on any Sabbath? A. No, sir; I do not remember of his being away on any Sabbath.

Q. When did you first know of Mrs. Robinson? A. I knew of her when he first commenced doctoring her. He was her physician.

Q. When was that? A. It was in 1884.

Q. Did you ever send for her to do any dress-making for you? A. Well, I did not send for her, but my husband said that she was owing him for his services and he could get her to come.

[Objected to and objection withdrawn.]

Q. What did your husband say to you?

FIELD, J. We cannot hear it, if it is not objected to. It is a private conversation between husband and wife. We intend to take notice of that statute whether counsel waive it or not.

Q. (By FIELD, J.) Was it a communication between you and your husband in that respect when no one else was present? A. Yes, sir.

Q. (By Mr. STEVENS.) Now, did you ever hear of any communication from Mrs. Robinson to your husband? A. I have, sir.

Q. When? A. When we were on Appleton Street she sent a communication to him to come to her house; that she was very sick and wanted him to come and see her.

Q. You never saw her yourself? A. No, sir; I never saw her myself that I know of.

Q. Do you remember one occasion when your daughter came to you and said that Mrs. Robinson had come there and wanted Dr. Beers to go to Cambridge? A. Yes, sir.

Q. Do you remember when it was? A. I think it was the winter before we left the house; I think it was, I could not say.

FIELD, J. I did not understand the question.

Mr. STEVENS. She says she thought it was the winter before she left the house, she cannot say positively. She left in April.

FIELD, J. When who came?

Mr. STEVENS. When Mrs. Robinson came.

FIELD, J. That was the time that her son's wife communicated to her the fact?

Mr. STEVENS. That is what I asked her.

Q. You say your husband had no office while you lived on Appleton Street, except at his house? A. No, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) Your husband went over to Mrs. Robinson's to treat her or her family professionally? A. Not her family; he was her physician; he had nothing to do with the rest of the family.

Q. He was her physician? Yes, sir.

Q. By that you mean he gave her medicines when she was sick? A. I suppose so.

Q. You knew of his going there and regarded his visits there as purely professional? A. Yes, sir, I did.

Q. You were not aware of any other visits than professional visits? A. No, sir.

Q. Your husband was a practicing physician at this time? A. Yes, sir.

Q. In general practice? A. Well, he was quite an old gentleman. Of course he has not had such a great deal of practice for a few years.

Q. What is his school of practice? A. Well, he is an eclectic physician.

Q. Did he have any specialty in the way of practice or medicine? A. Yes, sir.

Q. What was his specialty? A. Well, a cure for intemperance.

Q. Anything else? A. Well, his cure for the opium habit.

Q. Anything else? A. No, sir.

Q. Did he advertise those specifics? A. Well, not to any great extent, after he came back to Boston this last time.

Q. But to some extent? A. Yes, sir; they were advertised some.

CHARLES C. BEERS — *sworn*.

Q. (By Mr. STEVENS.) What is your full name? A. Charles Clinton Beers.

Q. How old are you? A. I was seventy-five last June.

Q. You were born where? A. In Derby, Connecticut.

Q. Dr. Beers, you were at one time confined in the State Prison in Connecticut? A. Yes, sir.

Q. When was that? A. I went there, I think, in 1849.

Q. How long did you remain? A. I came out in either 1854 or 1855.

Q. What was it for? A. I was confined on a charge of burglary which I never did.

Mr. STEVENS. Well, if it is not objected to you may make an explanation.

Mr. GOODRICH. I think I ought to object to his going further than that. I think he has explained enough.

Mr. STEVENS. Very well. If you don't want any explanation made, we won't have any.

Q. Now, Dr. Beers, when you came out of there, — it was in 1854? A. Either 1854 or 1855.

Q. You were married then? A. Yes, sir.

Q. And all your children were born? A. Yes, sir.

Q. You have one son now who is foreman in a department of the Boston "Journal"? A. Yes, sir.

Q. Your children, I think, are him and Mrs. Tucker? A. No; I have a son in New York.

Q. Mr. Tucker, your son-in-law, is a dealer in plumber's supplies in Boston? A. Yes, sir.

Q. When you left Derby, — when you came out of prison you came to Boston? A. I came to Boston.

Q. What did you do? A. I went to Mr. Charles Spear's house.

Q. Who was he? A. Charles Spear was called "the prisoner's friend," and he had a good deal to do in looking out for persons who came out of prison, finding them employment and so forth.

Q. You remained with him how long? A. I don't remember just how long; perhaps five or six months.

Q. What did you do? A. Well, I went with him on his tours around the different towns on this particular business. He took me with him.

Q. He knew your history? A. Yes, he knew all about it.

Q. Then what did you do? Where did you go? A. Then I went into the — I had a mesmeric power whereby, by the application of my hands, I could relieve disease, and I practised that; I wrote. I was written to from different parts of the country.

Q. At any time were you appointed agent for discharged convicts? A. Yes, sir.

Q. At any time before you were appointed were you associated with the agent who died? A. Yes, sir.

Q. Who was that agent? A. Dr. Taft.

Q. He was a son-in-law of Father Taylor? A. He was a son-in-law of Father Taylor.

Q. You lived in his family, did you? A. I did not.

Q. How long did you act with him? A. I think nearly two years.

Q. You said you lived in Mr. Spear's family? A. Yes, sir.

Q. Did these gentlemen know what your history had been, both of them? A. Yes, sir.

Q. You assisted Dr. Taft in his duties as agent for discharged convicts? A. I did.

Q. Then you were appointed by Governor Andrew as agent? A. Dr. Taft died and I took charge of it, in connection with his wife, for a year or two. Then I was appointed by Governor Andrew to be the agent.

Q. When was that? A. I have a document in my pocket which shows it; it was in 1861, I think.

Q. You can refer to the document, if you wish; look at it and tell us when you were appointed? A. March 20, 1861.

Q. You have lost your original commission? A. Yes, sir.

Q. That [paper referred to] is a certificate from the State House?
A. Yes, sir.

Q. You have a letter from Governor Andrew? A. Yes, sir.

MR. GOODRICH. I object to the letter.

MR. STEVENS. If you object to it, I do not press it.

FIELD, J. It is only material as fixing the date of the appointment.

Q. (By MR. STEVENS.) At the time you were appointed by Governor Andrew did he know that you had been a convict? A. Yes, sir.

Q. While you were acting as agent for discharged convicts, — that was in the early part of the war. You had at the time been a tailor, or a cutter, had you? A. Yes, sir.

Q. You were engaged cutting trousers for soldiers, I think, partly?
A. Well, my father had determined I should follow his business —

Q. (By FIELD, J.) He was a tailor? A. My father was a tailor, — which I did not like, but, obeying his commands as long as he lived — no, as long as I could I kept at that business. Then I left it and practised dentistry.

Q. (By MR. STEVENS.) You were a dentist at the time of your arrest in Connecticut, I think? A. Yes, sir.

Q. You went to New York with one of your sons, then? A. Not with one of my sons. I went to New York in 1872.

Q. Well, joined your son there, perhaps? A. No, sir, my son was not there. I went there at the suggestion of a man of business who wished to go into business with me.

FIELD, J. His son was not there?

THE WITNESS. I had no son in New York when I went there.

FIELD, J. I did not wish any mistake to be made in the matter, that is all. I thought you misunderstood him.

Q. (By MR. STEVENS.) Your son joined you in New York afterwards? A. He did, sir.

Q. How long afterwards? A. It was within a year.

Q. How long did you remain in New York? A. I remained in New York from 1872 to 1883.

Q. Before you returned from New York, at any time did you ever see or know the prisoner, Mrs. Robinson? A. Never.

Q. When did you first meet her after you returned from New York? A. I met her on the railroad cars.

Q. Whereabouts? A. On the Western Avenue railroad; that, from where I was living with Mr. Tucker, was the shortest way to get to Boston.

Q. (By FIELD, J.) Is that a steam railroad or a horse railroad?
A. A horse railroad.

Q. (By MR. STEVENS.) Do you remember when it was? A. It was in 1883, I do not recollect just when.

Q. 1883? A. Yes, sir.

Q. I wish you would state what was said. State all that occurred at that interview, so far as you remember it. A. I am naturally very fond of children, and I was on the car one day and there was a little girl came to me very pleasantly, — I very often speak to little children, although I never saw them before, and I spoke to her; and through her I became acquainted with Mrs. Robinson. And by some fatality to me I often met her on the cars going into Boston. She told me that she went to the car office in Boston often so as to come out with me on the cars. There is where I first met her. On the cars, — by our talk on the cars it came out that I was a physician. She told me that she had a trouble about her that other physicians had not seemed to reach, that was, change of life. And I told her that I had a specific which I had often used very successfully for that disease. She said she would like to have me attend to her case and invited me to her house to see her. I went there.

Q. You went there repeatedly after that? A. Yes, I went there as a physician.

Q. How often, every day? A. Well, sometimes every day and sometimes every week.

Q. That continued for how long? A. That continued up to the death of Lizzie.

Q. That was in February, 1886, was it? A. Yes, sir.

Q. Something over two years? A. After her death I ceased going.

Q. Now, Dr. Beers, do you remember of going to see Mrs. Robinson when Mrs. Freeman was sick over in South Boston? A. I do, sir.

Q. What was the occasion of your going over there? A. And she sent me a note requesting me to come over there and bring some nice good wine. She said that the doctor had ordered her sister some good wine, and she wished me to bring some over. I went and bought a bottle of wine, the best I knew, and carried it over and gave it to Mrs. Robinson.

Q. Do you remember how many times you were over there while Mrs. Robinson was there? A. I don't really remember of being there only this time.

Q. Do you know whether you were there two or three times? A. It is possible I was there, but I could not swear I was there but once.

Q. At any time while you were there did you go to see Mrs. Freeman? A. I never did.

Q. Did you have any conversation with Mrs. Robinson about Mrs. Freeman? A. Only that she told me while I was there at this time

that the doctor said she had pneumonia. She wished me to see her before I went away, but I had no opportunity to see her at all. I said, "I thought you wished me to see Mrs. Freeman." She said, "She won't see you."

Q. Do you remember being there when Mrs. Marshall was there?
A. I never saw Mrs. Marshall there.

Q. You did not see her? A. No, sir.

Q. Do you know of her being there? A. I do not know of her being there. I only know of her being there by what she said took place while I was there, the conversation, which was true. I did not see her.

Q. You were in the kitchen? A. Yes, sir, in the kitchen.

Q. After Prince Arthur Freeman went to Cambridge to live — his wife died in February, 1885, and he died in June, 1885 — how often did you go to the house? A. After Mr. Freeman came to live with Mrs. Robinson?

Q. Yes. A. Well, I don't know; I might have been there two or three times a week.

Q. Did you see Prince Arthur Freeman frequently? A. I saw him before he was taken sick once or twice; after he was taken sick I nearly most saw him.

Q. You say you never saw him there but once or twice in your life? A. Well, I won't define it, it might be more than that. I don't remember of seeing him but once or twice before he was taken sick, and I did not see him to speak to him after he was taken sick. Mrs. Robinson said he was sick, but I did not go into the room where he was to see him.

Q. You heard Mrs. Robinson testify that when he went to work in the iron works he had a sore throat, and you gave him some medicine. Is that true? A. That is not true.

Q. You heard her say that while he was sick you went into the room and gave him some medicine. Is that true? A. That is not true.

Q. You say you did not see him at all while he was sick? A. I saw him, sir. As I was going out of the house I saw him through the door on the bed; I did not speak to him.

Q. Now, did you carry anything there to give him, any medicine?
A. Never.

Q. Of any kind whatever? A. Never; no, sir.

Q. Did you carry anything to give Mrs. Robinson for him?
A. No, sir.

Q. Did you in any way, directly or indirectly, yourself or through Mrs. Robinson, give him any arsenic? A. No, sir.

Q. Or did you, either directly or indirectly, give Mrs. Freeman any arsenic? A. Never.

Q. Did you at any time say to Mrs. Robinson — I don't know whether you heard her testimony or not; were you in this room when she testified that you had told her that before Prince Arthur died that you had had a vision in which you received information that your friends were about to die? A. I?

Q. Were you here when she testified? A. That I had had a vision?

Q. Yes. A. No, sir.

Q. Did you at any time communicate to her the fact that Mrs. Freeman was going to die? A. No, sir.

Q. Did you at any time communicate the fact that Prince Arthur Freeman was going to die? A. Never.

Q. That you had had some communication? A. Never.

Q. Did you ever communicate to her the fact that you had received a communication that Lizzie Robinson was going to die? A. Never.

Q. Did you ever communicate to her the fact that you had received a communication that Thomas Arthur was going to die? A. Never.

Q. Or that Willie was going to die? A. Never.

Q. Or that any member of the family was going to die? A. Never. I was going to ask if I could be allowed to say what she said on that subject?

Mr. STEVENS. Yes, sir, you may. I was going to ask you that by and by. You may state what she said to you.

The WITNESS. I was there before Emma died. She told me that her husband had come to her and told her that he wanted Emma. And before Lizzie died she told me that her husband had come to her and told her that he wanted Lizzie with him on the other side; and I stated that to my wife when I went home —

[Objected to.]

Q. If you had any conversation with Mrs. Robinson afterwards about the conversation you had with your wife, you may state it. Did you have, at any time, any conversation with Mrs. Robinson about the conversation you had with your wife? A. Yes, sir.

Q. What was that? A. Well, I told her what I had said to my wife, what she told me, and I told her what my wife said.

Q. What did you tell her your wife said? A. I told her my wife said she was certainly poisoning those children.

Q. Now, you never saw anything, I suppose, to excite your suspicions that she was poisoning those children? A. Sir?

Q. I suppose you never saw anything that would lead you to suppose she was poisoning those children? A. No, I never had a suspicion.

Q. Did she make any communication to you about Prince Arthur Freeman, as to whether she had had any communication with reference to him? A. No.

Q. Nor in reference to Thomas Arthur? A. She only spoke about Emma and Lizzie.

Q. Did you represent to Mrs. Robinson at any time that you were a single man? A. Never.

Q. Did she always know that you were a married man? A. She always knew it.

Q. When you were living at Allston you told her where you were living? A. I told her where I was living and that I had a wife, and all about it, not two weeks after I first saw her. And I told her counsel, too.

Q. Mr. Crane? When was that?

[Objected to.]

FIELD, J. I don't know that what he communicated to counsel is material.

MR. STEVENS. If it is objected to I suppose I cannot put it in.

MR. GOODRICH. He might have told somebody else.

Q. Mr. Crane at that time was acting as counsel in a suit for her? A. Yes, as counsel in a suit for insurance.

MR. GOODRICH. I object to this testimony.

Q. (By MR. STEVENS.) When was this? I want to fix the date.

A. I cannot tell the date of the month, but it was within a few months after I first became acquainted.

Q. (By FIELD, J.) That you spoke to Mr. Crane? A. Yes, sir.

FIELD, J. I misunderstood it. I supposed he said it to Mr. Crane since this indictment.

THE WITNESS. No, sir.

FIELD, J. I now understand that he says he told that to Mr. Crane, who was counsel in an insurance suit, and told it some time within a short time after, he says, he first became acquainted with Mrs. Robinson.

MR. GOODRICH. We object to it.

FIELD, J. If you propose to connect it with her —

MR. STEVENS. I do not propose to connect it other than in this way: As I understand, Mr. Crane was acting as counsel for her in bringing suit for the insurance on the life of Moses Robinson; and at this time he went in, having been sent, as I understand, by Mrs. Robinson, in connection with that, to have some conversation with him. He was acting at that time as agent for Mrs. Robinson, and the witness made a certain statement in the conversation in which he spoke of his wife and family.

FIELD, J. And all this happened before either of the deaths?

MR. STEVENS. All this happened before either of the deaths, except that of Moses Robinson.

FIELD, J. If you propose to show that Mr. Crane communicated it to his client —

Mr. STEVENS. I do not suppose I could do that without putting Mr. Crane on the stand, and I should not want to do that.

FIELD, J. If you do not propose to connect it, I think the reference to Mr. Crane must be excluded.

Q. (By Mr. STEVENS.) Was it your custom to go there on Sunday? A. I don't know as I was ever there on the Sabbath.

Q. Mrs. Robinson testified that you were there on the 21st of June, on the Sabbath, the day before Prince Arthur was taken sick. Were you there on that Sabbath? A. I never knew that Arthur was sick at all until I heard of his death.

Q. I am not talking of Thomas Arthur, I am talking of Prince Arthur, the father. Prince Arthur was taken sick on one Monday, the 22d of June, 1885. He died the next Saturday. You said while he was sick you were there once, but you did not see him except once when you passed by the door and saw him through the doorway. Now, Mrs. Robinson says that the day before he was taken sick, that is, on Sunday, June 21, 1885, you were there at her house. Charles Robinson says that you were there at their house when he and Mr. Freeman went over to Boston to church, that he left you there. I ask you if you were there on that Sabbath? A. I was not there.

Q. Whether or not you remember having been at her house on any Sabbath? A. I never was at that house on the Sabbath at all.

FIELD, J. This house was where?

Q. (By Mr. STEVENS.) This house was on Boylston Street? A. Yes, sir; 54 Boylston Street, Cambridge.

Q. You always had your office, when living on Appleton Street, in your house? A. Yes, sir.

Q. Mrs. Robinson says that she gave four hundred dollars or five hundred dollars of the money that she received from Freeman's insurance to you. Is that true? A. That is false.

Q. Did you ever receive any money from her? A. I never did. That is, she borrowed twenty dollars of me once while she was getting Prince Arthur's money, to help her through, she said. When she got the money she paid it back to me.

Q. You had no conversation with her about the insurance on Prince Arthur? A. No, sir.

Q. When you told her the conversation you had with your wife, in which your wife told you that Mrs. Robinson had been poisoning those children, what did Mrs. Robinson say? Did any other conversation take place? A. She said nothing.

Q. I suppose you did not believe it? A. I did not believe it.

Cross-examination.

Q. (By Mr. Goodrich.) Are you now under indictment in this court for the murder of the prisoner's daughter, Lizzie? A. I am.

Q. Awaiting trial? A. No, sir.

Q. What do you mean by that? A. I am not awaiting trial, because there is no trial to be.

Q. What? A. There is not to be any trial.

Q. Ah, have you made such an arrangement? A. What?

Q. Have you made such an arrangement with somebody? A. No, sir.

Q. Then how do you know there is not to be any trial? A. I know there is no evidence. I know the State constabulary has said they cannot find a particle of evidence against me.

Q. Is that the only reason you have for supposing there is not to be any trial? A. Yes, sir.

Q. That is the only reason you have to suppose that you are not to be tried, is it? A. The only reason is because I am not guilty of it; and after a thorough examination they testified that they had not found the least thing against me, and I do not see how there can be any trial.

Q. Then it has already been tried, has it? A. No, sir.

Q. Where does that evidence appear that there was nothing against you? A. Appear where?

Q. Where does it appear? A. Where, do you mean?

Q. Yes; where has anybody ever testified saying that you were innocent? I won't prolong it, sir. A. I was told by good authority that they had said that.

Q. I want you now to state to the jury in a single word whether you have been discharged in any way from the indictment against you for the murder of Lizzie Robinson? A. Not that I know of.

Q. It is now pending in this court, is it not? A. I suppose so.

Mr. STEVENS. If it is of any consequence we will *not pros.* it now.

Q. What is your business? A. I am a physician.

Q. Your visits to Mrs. Robinson were all purely professional?

A. No, sir. Most of them were, but by her request—

Q. Most of them? Did you have any other object in visiting her?

A. I had no object in visiting her except she was poor, always complaining she had no money, and I saw that she was in trouble; she was my patient, and I thought if I could relieve her in any way, I would.

Q. Did you ever make love to her? A. Never.

Q. Did you ever tell anybody that you would like to marry her?

A. No, sir.

Q. Do you know Belle Clough? A. I do.

Q. Did you tell her you were married? A. No, sir; and I never told her I was not married.

Q. Did you ever give her any reason to suppose that you were married? A. I suppose, of course—I had informed Mrs. Robinson that I was a married man; she knew it, and I supposed all the family knew it, of course.

Q. Did you become acquainted with a good many persons in Mrs. Robinson's family among her acquaintances? A. Not many.

Q. You sometimes went to church with Mrs. Robinson? A. I never went to church with her but once.

Q. And Lizzie Robinson, her daughter, knew that you were a married man? A. I don't know whether she did or not, I never told her I was.

Q. You knew Lizzie well, didn't you? A. I did.

Q. You were there a good deal before she died, were you not? A. I was.

Q. You were fond of her, were you not? A. I thought very much of her as a young lady.

Q. She was a fine young lady, was she not? A. Yes, sir.

Q. Of very fine character? A. Yes; I thought a great deal of Lizzie Robinson.

Q. She thought a good deal of you? A. Well, she never said so. She always used me well, so far as that is concerned.

Q. Did she ever drop a remark indicating that she had any belief that you were a married man? A. Never.

Q. Have you any reason to suppose that anybody connected with Mrs. Robinson's family, any acquaintance of Mrs. Robinson, or any member of her family knew that you were married? A. Well, I have no reason to suppose they had, only upon the supposition that Mrs. Robinson would—

Q. Had told them? A. Yes, sir.

Q. Do you know of any circumstance or any statement of yours, any facts whatever which would tend to show that the members of Mrs. Robinson's family would suppose that you were a married man? A. Well, there might be, as Belle Clough testifies, something come up in the way of nonsense, and she asked me, "Why don't you marry Mrs. Robinson?"—Belle Clough—and I say, "She won't have me." It was nonsense, you know.

Q. You think it is quite likely that something of that sort happened? A. Something of that sort.

Q. Did you know Chandler? A. Yes, sir; I knew there was such a man about there.

Q. He lived in the house? A. I don't know that he lived in the

house. He pretended to be an acquaintance or beau of Belle Clough, and when she was there I suppose he came there to see her.

Q. Did you ever call upon him to witness your putting of a ring on Mrs. Robinson's finger in token of your affection for her?

A. Well, he says so, but I have no recollection about that.

Q. Is that as strong as you will put it? A. Yes, sir; I have no recollection of it.

Q. Your recollection of your general conduct in Mrs. Robinson's house would not enable you to deny this statement that he made, would it, positively? A. I don't know as I understand it.

Q. I say your general conduct in Mrs. Robinson's house would not enable you to deny his statement? A. What statement?

Q. That you called upon him to witness your putting of the ring on Mrs. Robinson's finger in token of your affection for her?

A. Well, Mr. Chandler did not always know what was said and done at Mrs. Robinson's.

Q. Did not? A. No, sir.

Q. What can you tell us about that? A. I will say that I have seen him intoxicated.

Q. Anything else? A. I can say what I have heard, if that will do.

Q. Well, anything that you saw. I don't want to go beyond that. I want the result of your observations. If I can find out what you know, I shall be glad. A. That is all the observation I had about it, what I saw in him, that I saw him a number of times in the house.

Q. That he was a drunken fellow? A. Well, I believed from my experience with other people that he was under the effect of liquor.

Q. Can you recall now, Dr. Beers, any fact or circumstance which would tend to connect Mrs. Robinson with a knowledge of the fact of your marriage previous to the death of Prince Arthur Freeman, other than you have stated? A. Yes, sir; she called at my house and inquired for me.

Q. Were you there? A. No, sir.

Mr. GOODRICH. Then you will have to stop there, I suppose.

The WITNESS. Perhaps I don't know that.

Q. Anything else?

Recess until two o'clock.

AFTERNOON SESSION.

DR. CHARLES C. BEERS — *continued*.

Q. (By Mr. GOODRICH) Dr. Beers, will you now tell us as nearly as you can the date of your first visit to Mrs. Robinson's house? The month or even the season will be sufficient. A. Sir?

Q. The month or even the season will be sufficient? A. It was in the summer of 1883, I think.

Q. And your visits continued until August, 1886? A. Off and on.

Q. About three years? A. Yes, sir.

Q. Were your visits during the successive seasons covering that period of substantially the same frequency? A. No, sir.

Q. Rather intermittent? A. Yes, sir.

Q. When were they more infrequent? A. Well, owing to business, I suppose, and owing to the condition of her health. When my visits were often, she had sent for me, usually.

Q. You were there for the next year after your first visit to her — you were there you should think two or three times a week? A. May be.

Q. And take it the next year after that, it would amount to about two or three times a week? A. Yes, sometimes two or three times a week and sometimes two or three times a month; as I say, depending on the condition of her health.

Q. And the last year your visits there amounted to two or three times a week? A. I should judge so.

Q. They were all substantially professional visits? A. They were not. I don't claim that.

Q. In substance all? A. Not substantially all.

Q. What portion of them were professional visits? A. Two-thirds of them.

Q. And all in reference to the condition of her health? A. Yes, sir.

Q. And in reference to a single complaint? A. Yes, sir.

Q. Did the complaint from which she suffered continue about the same, covering the whole period? A. Well, sometimes they would improve. It was a complaint that mental trouble had a great deal of effect upon. Mental trouble would bring on the disease when the patient was comparatively well.

Q. And in your treatment of her did you have occasion to govern your treatment somewhat by those considerations of her mental troubles? A. Yes, sir, somewhat.

Q. You practised, you say, mesmerism for some years. Did you go about the country with it? A. No, sir.

Q. Where did you practise it? A. At my own house in Boston.

Q. At your house? A. Yes, sir.

Q. You were gifted with that faculty of mesmerism, as it is called?
A. I was.

Q. To a marked degree? A. Yes, under certain circumstances I have had my patients tell me I did wonders. And sometimes I did not succeed, and sometimes I did.

Q. This is a faculty that is likely to remain so far as you know, and has remained with you up to now? A. No, sir, it has not remained with me.

Q. You have not exercised that much of late? A. No, sir, not of late. I have it partially now. I find in visiting patients a little manipulation, laying my hands on the head, is quieting to them.

Q. You find you still retain that faculty? A. Well, in a degree, but not to the degree I did once.

Q. You find that useful in some cases? A. Yes, sir.

Q. And employ it, I presume, in some cases? A. Yes, sir.

Q. At any of your visits to Mrs. Robinson did you at any time present her with any rings? A. I never did.

Q. Did you ever deliver her any rings? A. She took rings off my fingers by force and arms.

Q. Took some rings off your fingers by force and arms? A. Yes, sir.

Q. Are those some of the rings [showing two rings] she deprived you of by force? A. She said that the rings —

Q. One moment. Answer that question first. A. Well, I have got to look to see. I can't answer the question without preparing. She said that the rings —

Q. One moment. Answer my question if you please, directly.
A. Well, sir?

Q. Whether she took those rings from you by force? A. That ring [showing one] she had from me. She took it off my hand without my knowledge.

Q. This one happened to be marked? A. Yes, sir.

Q. That one is not marked? A. I do not know whether I gave her that or not.

Q. Whose initials are in this ring? A. She says it is mine.

Q. What do you say? A. I say it is not.

Q. Whose initials are those? A. The initials of a friend of mine who gave it to me thirty years ago.

Q. P. H. T.? A. Yes, sir.

Q. Who was P. H. T.? A. It is a friend of mine, a nephew of mine.

Q. Which finger did she take it from? A. The little finger.

Q. Let us see how well it fits? A. It was on that little finger [putting the ring on the finger], until she took it off by working,— by working it off by degrees when I was thinking of something else. It had been on my finger for thirty years. It is not likely that I should take it off. I believe she was the first one that ever got it off.

Q. It came off that finger, didn't it? A. Yes, sir, but not by my hand.

Q. She took it off your finger by force and arms? A. Yes, sir; you understand what I mean by that,— against my will.

Q. We understand what you say, so far as that goes. A. I don't know that I can get it off. [Trying to remove the ring.]

Q. But she could get it off? A. She could get it off. It had not been off for thirty years until she did take it off.

Q. It took something pretty strong to get it off, didn't it? It was not withdrawn from your finger by the power of love or affection? A. No, sir, I hope not.

Q. What finger did that come from? [Showing the other ring.] A. I don't know as it ever came from me at all. I don't know anything about that ring.

Q. You don't know? A. No, sir, because there is no mark.

Q. I understood you said you don't know whether you had it or not? A. I don't, about this ring.

Q. Do you mean to tell the jury that at the time of your visits to Mrs. Robinson you had not such a ring as that? A. I don't know.

Q. Did you have such a ring while visiting her? A. I never had any ring on my finger except the one with the initials.

Q. Then why did you say you did not know whether she took it from you or not? A. I did not know.

Q. If you had not any ring on your finger for thirty years but this, you do know whether she took that ring from you or not? A. I don't recollect about any ring but that.

Q. You will not be positive about it? A. I don't recollect any but that.

Q. Would you put it any stronger than that you would not be positive? A. I don't think I had that ring.

Q. It is a little thing, but did you present her with a pencil? [Showing small black pencil.] A. No, sir.

Q. Did you ever have that? A. Stolen out of my pocket.

Q. I only wanted to know if it was yours? A. Yes.

Q. This was not taken with force? A. No, sir, taken without my knowledge or consent.

Q. How did you come to find out she took it? A. I did not know it before this moment.

Q. How did you know but Lizzie stole it, or some one else stole it?

A. Because I don't believe she would steal; that is the reason. Lizzie would not steal.

Q. Was Mrs. Robinson ever feeling round your pockets in that way? A. If she got that pencil from me, she took it in that way.

Q. I want to know if it was your pencil? A. I don't know as it was, but I had one similar to that, that left my pocket certainly, once.

Q. Where is your office now? A. I have no office.

Q. Where did you last have an office? A. I had an office last at the corner of Tremont and Eliot Streets.

Q. When did you give it up? A. I gave it up by force and arms, when I was arrested and brought to Somerville and kept in prison months without crime.

Q. And that was in August, 1886, and at that time will you tell us what was this office of yours, — how many rooms had it? A. I had rooms in connection with Dr. Coleman.

Q. Were you a partner of his? A. Well, it was not really a partnership; we were together; we occupied the same rooms, but each had his own patients.

Q. And at that time were you engaged in any special practice? What was your practice then? A. Well, my special practice was what it had been for years. In connection with him —

Q. What was that? A. Curing intemperance and opium habit.

Q. By the use of certain antidotes? A. Yes, sir.

Q. Did you advertise the antidotes? A. I did not advertise the antidotes. I advertised I could do it by medical treatment.

Q. What did the medical treatment consist of? A. Well, that is a secret with me.

Q. You don't want to divulge it? A. No, sir.

Q. Can you tell us safely something about the general features of the treatment that would not expose the real secret? A. Shall I give you my ideas in regard to it?

Q. So far as you would not disclose any business secrets. I want to know generally how you cured the opium habit? A. Every man or woman that drinks alcohol, — the first dose they take into the stomach creates a slight membrane. The stomach revolts against it, and nature provides a slight membrane to protect itself against the effect of the alcohol. Well, now my object was to put the stomach into a condition when it got somewhat advanced so that I took it out. I have seen them vomit up particles of this membrane, which is called the adventitious membrane. Well, it was as thick as a piece of paper. I have seen them vomit that up, throw it off under the effects of my medicine, because I knew I gave them medicine for that purpose. That is the reason that a man can commence with a very little and it

will affect him, and he can go on for years and drink until it will take a pint to affect him where he could not take a teaspoonful before.

Q. You have something that dissolves the false membrane?

A. Yes, sir; dissolves it and leaves the stomach without any demand for the stimulant.

Q. Then you have some means of investigation of the stomach and made this subject an anatomical study? A. Yes, sir; it has been a subject of investigation with me for a great many years.

Q. The uses and capacities of the stomach, — the nature, the tissues, the structure of the stomach have all been the subject of your inquiry and investigation? A. Yes, sir.

Q. And the effect of agents on these membranes has been a matter of study with you? A. Yes, sir.

Q. Involving, to some extent, some chemical experiments, possibly? A. No, sir.

Q. Your experiments have been all medical in their nature? A. Yes, sir; all medical.

Q. Well, now so much for the alcoholism. Will you tell us something about your general treatment of opium patients? A. Of course opium habit is the result of an increase of the morphine. A doctor will give a patient a quarter of a grain of morphine, we will say, first.

Q. Will you abridge it a little to tell us how you treat it? A. I am going to. It is like the opium eaters,*the arsenic eaters of Styria. You have read about them?

Q. Well, have you? A. Yes, sir.

Q. You have? A. Yes, sir.

Q. Then you know about it better than I do. A. I speak of the effect of morphine; it is something like that. A person commences with a small quantity, and next day or week he wants some more of the same thing to produce the same result on the human system. And I have had patients who commenced with a half grain and took morphine until they took thirty grains a day, enough morphine, if taken into the stomach of a person who is not used to it, to kill a hundred and twenty persons.

Q. But you have got them gradually up to the point of sustaining an extraordinary quantity by your experiments, have you? A. Sustaining?

Q. Yes, sir; so that the stomach tolerated so much larger doses? A. No, that was by their own action before they came to me. My object was to put the stomach into a condition where it would not demand so much.

Q. By the way, is that about the same in the case of arsenic? A. It is said to be. It is said the arsenic eaters of Styria commence by using it for their complexion. I have read this in the books, that

is all. And it is increased just like morphine; it has to be increased to get its effect, until if they leave it off it is said they will die, and if they continue it they will die.

Q. Now, go on and tell us how you cured the opium habit.

A. Well, I cured it by introducing other remedies to take the place of the morphine.

Q. Those remedies are a secret? A. They are a secret.

Q. Something to take the place of the morphine? A. Yes, sir; a combination of remedies—all nearly the same nature as morphine—which takes the place of morphine, and they could ease up on that; they can take less and less every day until they do not want any.

Q. The antidote is largely of the same nature as the bane?

A. As the pain?

Q. As the bane. I thought you said the substances were something of the same nature as the morphine? A. Something of a narcotic, as morphine. There are a great many narcotics, but not such as morphine.

Q. At the present time you are engaged in practice to some extent, are you? A. No, sir.

Q. Where are you employed? are you employed anywhere? A. I have not been able to be employed since I came out of the Cambridge jail. I liked to die while I was there, and I was restoring my health since I got out, in consequence.

Q. Is not there any office in Boston where you have spent portions of your time since then? A. Yes.

Q. What ones? A. I have often been into the office of Mr. Litchfield on Milk Street.

Q. What is his business? A. He is connected in real estate business, and a speculator, I should think. I know but little about it from what I observed when I have been there.

Q. Personal property, mortgages? A. Not that, exactly.

Q. But that to some extent? A. Well, he deals; he buys and sells property himself, I judge.

Q. Is there any medical office in Boston where you have been more or less along back? A. No, sir; I have not.

Q. Have you been at all interested in the subject of electrical baths for the last year or two? A. Well, not for the last year or two.

Q. Up to how late a period have you been interested in them?

A. Twenty years ago.

Q. What are electrical baths a specific for? A. Well, they are for rheumatism.

Q. Anything else? A. Neuralgia.

Q. Were those baths expensive? A. No, sir.

Q. Cost about how much apiece? A. It was simply warm water.

Q. I want to know the cost to the patient? A. I will tell you how it is done.

Q. I want to know whether the baths were expensive to those who used them? A. I usually charged a dollar.

Q. Well, in connection with your professional advice and treatment, was not the charge ten dollars, sir? A. Sir?

Q. In connection with your professional advice and treatment, was not the charge ten dollars? A. I never charged ten dollars.

Q. Did not charge ten dollars? A. Never; I never charged but one dollar for an electric bath.

Q. Those electrical baths are dangerous in certain conditions of the system, especially the female system? A. That depends on how wise the practitioner is who gives them.

Q. Suppose he is not a wise man, is it dangerous? A. They are not dangerous in the hands of those who understand electricity.

Q. But in the hands of an unskilful practitioner they would be dangerous? A. Yes, sir.

Q. Especially to females in a delicate situation? A. I don't know as there is any difference on males and females.

Q. That was some time ago? A. That was some time ago.

Q. Were you married some fifty-three years ago? A. Yes, sir; I was married fifty-two years ago.

Q. To your present wife? A. To the present wife.

Q. Did she get a divorce from you? A. Yes, sir.

Q. When did she get a divorce from you? A. When this trouble happened to me about the burglary.

Q. While you were in State prison? A. Yes, sir.

Q. And after you came out you resumed your relations to her? A. Yes, sir. She got her divorce from me, not by her own will or wish, but by others.

Q. The fact is what I wanted to know, — she got a divorce from you? A. Yes, sir.

Q. And after you came out your relations were restored in some way? A. Yes, sir.

Q. How were the relations restored? A. Restored because I was here in Boston living.

Q. In what way? Was there any legal restoration of your relations? A. Yes, sir.

Q. What was it? A. Why, a regular marriage by a minister.

Q. Where? A. On a court that runs out of Tremont Street. I have forgotten the name of the man. It was on a court that runs off Tremont Street.

Q. Have you forgotten the name of the court? A. I have.

Q. And forgotten the name of the minister? A. Perhaps she can tell you that.

Q. Have you forgotten the name of the minister? A. Yes, sir, I have forgotten. I never saw the man before. She came on here and I found the nearest minister and we were married.

Q. Can you tell us about the year of your marriage? A. That was, I think, about 1858 or 1859.

Q. In Boston? A. In Boston.

Q. And do you know whether or not the public records of Boston contained any record of your re-marriage? A. I don't know, I never examined them.

Q. You never took pains to examine them? A. No, sir.

Q. You knew it was quite freely talked of, and did you know the fact that it was reported in the newspapers that your wife had been divorced from you? A. When reported in the newspapers?

Q. About the time of your arrest? A. I did not know anything about it.

Q. You knew the fact that some people knew you had been divorced? A. Of course they did,—divorced in the New Haven County court.

Q. And people around here knew it? A. They all knew it, of course.

Q. Did you ever take any pains to set yourself right in that matter,—to see if you had any evidence of your re-marriage? A. No, sir, it is not really necessary.

Q. As long as you are able to be present personally to explain the fact that you were re-married, you considered that sufficient? A. Yes, sir.

Q. You cared nothing about the matter personally beyond that? A. For myself I did not care. My wife's character was sufficient to make it certain that she would not live with me unless we had been re-married.

Q. You administered medicines to Mrs. Robinson? A. Sir?

Q. You administered medicines to Mrs. Robinson? A. All the medicine I gave her was a powder for that complaint, the change of life.

Q. What kind of powder was that? A. What was it made of?

Q. Describe its appearance, first? A. It was made of materials that were yellow. The powder itself was a light yellow.

Q. A light yellow? A. Almost whitish.

Q. Almost white? A. No, sir.

Q. It was in the form of a powder, was it not? A. It is in the form of a powder.

Q. What were the materials? A. Am I obliged to answer that?

Q. That cannot be a professional secret?

Mr. STEVENS. No objection to that; tell him what it was.

FIELD, J. I think you should answer it, sir.

A. It was composed of acetate plumbum, or pulverized opium, and the extract of belladonna, hard.

Q. What is that? Repeat it? A. It was acetate plumbum, that is, sugar of lead and opium, and hard extract of belladonna, so that it could be pulverized.

Q. Is that the only medicine you administered to her? A. Yes, sir, that is all that I ever found necessary.

Q. Did you have occasion to prescribe that a great many times?

A. To her?

Q. Yes. A. I guess she sent for it fifty times.

Q. Fifty times? A. I should judge so.

Q. And you were there two or three times a week, besides?

A. Well, you know I have said to you I was not there always two or three times a week. Take me as I say, is all I ask.

Q. But you did think it averaged two or three times a week?

A. Well, I used to think sometimes it was me instead of the medicine she wanted, — the reason why she sent for it.

Q. She sent very frequently under circumstances that led you to suppose it was you she wanted to see, rather than the medicine?

A. Well, I think so, sometimes.

Q. And that did not seem to be any obstacle to your promptly responding to the summons? A. I don't know that; I don't claim to.

Q. After you found she sent fifty or a hundred times did you not become aware of that? A. I did not say she sent fifty or a hundred times. I said I judged she sent by different parties fifty times to me for the medicine within two or three years. That is what I said.

Q. On what occasions was it which you suggested as indicating in your mind rather her desire to see you than to consult the doctor?

A. When I went there to see her, when she wanted medicine, I did not see any symptoms or conditions of any disease.

Q. What did she seem to want of the doctor? A. I do not know; I cannot judge of that.

Q. You could not form any idea? A. No, sir.

Q. Then why don't you think she wanted you professionally?

A. Well, because the medicine was not necessary at the time.

Q. But the uselessness and purposelessness of your visits never restrained you at all in the frequency of your visits to her? You always responded to her summons? A. No, sir, I have often refused to go.

Q. Often refused to go? A. Yes, sir.

Q. Still you kept up an average of two or three times a week the first year? A. Well, not regularly two or three times a week. Sometimes it was six times a week, and then again it was less.

Q. At some time after the death of Freeman, in an interview with Mrs. Robinson, she took these rings and threw them at you, didn't she? A. No, sir.

Q. Didn't she? A. No, sir.

Q. Did you see these rings at any time off from her fingers? A. No, sir.

Q. After she had put them on? A. I asked for the ring with the initials inside of it a great many times, but I never got it.

Q. Oh, you didn't? A. No.

Q. You wanted it? A. I wanted it. Well, it was given to me by a nephew of mine dead and gone, and I prized it.

Q. When she got it off your finger there by force and arms, did you make any resistance? A. I did not think she could get it off. I tried many a time myself to get that ring off my finger and I could not get it off. I did not think it was possible for any one to get the ring off my finger.

Q. But she got it off? A. Yes.

Q. She got it off without your consent? A. Well, I was probably reading; I don't recollect now. I know she took it off and I did not know at the time.

Q. Perhaps you knew she got it off by discovering the loss of it after you got up from your newspaper? A. No, sir, I did not.

Q. Your attention was directed to your newspaper? A. Yes, sir, or book, or something of that kind, I don't recollect what now.

Q. Did you ever go to camp-meeting with Mrs. Robinson? A. Yes, sir.

Q. Where was that? A. I don't know where it was. It was so long ago I had forgotten about it.

Q. Do you remember in what general direction it was? Was it Sterling, or Hamilton? A. I think it was towards the east, north-east, out that way somewhere.

Q. How long were you gone? A. Why, one day.

Q. And did you ever go to Natick with her? A. No, sir.

Q. Did you ever go up to Natick after her? A. Never; I went to Natick, but not after her.

Q. Well, in one sense you went after her? A. Yes, I went after she was there.

Q. You went to her house in Somerville to see her? A. No.

Q. Well, did you go to her house in Somerville on the same day you went to Natick? Did you go to her house first that day? A. No, sir.

Q. How did you know she had gone to Natick? A. Well, I did not know. I did not go to see her.

Q. You went accidentally? A. Shall I tell you why I went?

Q. No, unless I ask you by and by. A. There was a very good reason why I went.

Q. Accidentally you went up to Natick the same day she went up? She preceded you? A. Yes, and I went to the house of her brother-in-law.

Q. How did you happen to go to the house of her brother-in-law? A. Because I did not see the man I went to see and was waiting for the cars to return, and I called at the house.

Q. You thought you would drop into the house? A. I was acquainted with the parties. I knew her husband's brother and his wife.

Q. You knew Mr. John Robinson and his family well? You had seen them two or three times? A. I had seen them well enough to call on them, as I was waiting for the train to return home.

Q. Did the Robinsons of Natick know you were married? A. I don't know, sir.

Q. Any reason to suppose they did? You passed some remark after you arrived there? A. I never told them I was married.

Q. Never did? A. No.

Q. No reason to suppose they knew it? A. I didn't think anything about it.

Q. When you arrived at the house Mrs. Robinson was not there? A. I did not inquire for her.

Q. Didn't you? A. No, sir.

Q. Didn't you say anything about her? A. No, sir; Mr. Robinson told me that Mrs. Robinson and Mr. Smith had just left the house, but I asked no questions.

Q. But you left the house pretty soon after that, yourself? A. I left the house in season, as I told you, to take the train home.

Q. That was soon after Mrs. Robinson left the house? A. Perhaps half an hour.

Q. After you got home from Natick did you then proceed to Mrs. Robinson's house in Somerville? A. Not that I remember; I don't remember going there.

Q. You really cannot remember anything about it, one way or the other? A. No, I have no idea of it. I have no remembrance that I went there.

HENRY W. O'HARA — *recalled.*

Q. (By Mr. STEVENS.) You testified, Mr. O'Hara, before dinner to an interview which you had with Mr. Freeman about the assignment of his policy? A. Yes, sir.

Q. I understood you to say in substance that when you told him he had better have it assigned, that he had never thought of it?

A. That was not my intention.

Q. What did you intend to say? A. I intended to say that I suggested to him, not knowing that he ever had any previous idea of having it changed, that he should have it changed for the benefit of his children.

Q. Did he say anything to you to indicate whether or not he had ever before thought of the same? A. No, sir.

Cross-examination.

Q. (By Mr. GOODRICH.) In what particular do you wish to change anything you said? A. I do not wish to change it in any way, sir.

Mr. GOODRICH. So I understand it.

Q. (By Mr. STEVENS.) I want to know whether you meant to say to-day that Mr. Freeman said anything to indicate whether or not he had thought of assigning it, before you spoke to him? A. He never said anything of the kind to lead me to understand that he did. He never intimated to me in any way that he had ever thought or spoken previously of changing his benefit certificate.

Q. Did he say anything to you to indicate that he had not thought of it before? A. No, sir.

Q. (By FIELD, J.) What did he say? A. He said he would have it done in the manner which I suggested.

Q. That is all he said? A. That is all, sir.

Q. (By Mr. GOODRICH.) You stated, Mr. O'Hara, as I have it, and if I have not it right, you will correct me, that he said he had thought of it before? A. I don't think I did.

Q. Was that correct?

FIELD, J. My recollection is that he stated it in two ways. In the first place he said, either in his own language or in reply to a question, substantially that he had not thought of it. Then on the subsequent examination he stated that the reply of Mr. Freeman was as he has testified now, that he would attend to it. There was some statement in the first examination, either by him or in answer to the question by you, that did imply that Mr. Freeman did in some manner indicate that he had not thought of it at all.

The WITNESS. That was not the idea I meant to convey.

Q. (By Mr. STEVENS.) That was not the idea you meant to convey? A. No, sir.

Q. (By Mr. GOODRICH.) At all events, you will say that upon your suggestion that he have it transferred to some one, that he said nothing so far as you remember about it which indicated that he had ever considered the subject before? A. No, sir.

THOMAS R. SMITH — *sworn*.

Q. (By Mr. STEVENS.) How long have you known Mrs. Robinson?
A. Well, I should say some fifteen or eighteen years.

Q. I believe you did not see Prince Arthur Freeman when he was sick? A. Prince Arthur Freeman I did not see.

Q. And you did not see Annie Freeman when she was sick? A. I did not, no, sir.

Q. Now did you at any time have any conversation with Mrs. Robinson or hear her make any statements about having had visions that members of her family were about to die? A. I have heard statements from her to that effect.

Q. Where was it, and when was it? A. Perhaps you would not call them visions, but that parties appeared to her and spoke with her. I don't know as you would call them visions.

Q. Do you remember at the cemetery ever having had any such conversation with her? A. I do.

Q. What was it?

Mr. GOODRICH. And when, if you please, right here?

Q. (By Mr. STEVENS.) Then when was that? A. Well, it was on two occasions. I cannot give you the date.

Q. Was it previous to, or subsequent to the death of Prince Arthur Freeman? A. Previous.

Q. Before or after? A. After his death.

Q. Now, what was it and where was it?

Mr. GOODRICH. One moment.

FIELD, J. More or less testimony has been introduced by Mrs. Robinson here which covered the whole time, but I do not suppose it is material in this case unless it was before the death of Prince Arthur Freeman, or else the conversation related back to some time previous to his death.

Mr. STEVENS. Do you object to that testimony going in, Mr. Goodrich?

Mr. GOODRICH. We rebutted the testimony of the government on that point.

FIELD, J. Yes, and you asked whether she had ever stated it to any one. We do not conceive it is material in this case, unless her statements were before the death of Prince Arthur Freeman, or if made afterward, related to what happened to her before that time.

Mr. STEVENS. It related in part to a member of the family who died before Prince Arthur Freeman.

FIELD, J. If this related to the death of Prince Arthur Freeman, or to that of his wife, we think it is admissible.

MR. STEVENS. I do not know that I can say it specifically related to them, but to Emma, who died before Prince Arthur Freeman.

FIELD, J. If it related to the death of any one prior to Prince Arthur Freeman, we will allow it.

THE WITNESS. Can I state all the circumstances?

Q. (By Mr. STEVENS.) You were at the graveyard with her in Chelsea? A. I was with her there placing flowers or plants upon Lizzie's grave. While doing so Mrs. Robinson said, "Mr. Smith, there is no one living that Lizzie would rather have place flowers upon her grave than you." After finishing setting out the plants, I arose, looked Mrs. Robinson in the face, and I said, "Mrs. Robinson, that plant, if it lives and does well another year, will bear a beautiful white rose. It will remain for a little, its leaves will wither, fall off and be gone." To which Mrs. Robinson replied, "I know it." I says to her, "Lizzie lives to-day in a land where flowers bloom, but not to fade." Mrs. Robinson replied, "I know it, and I wish I were with her, and that my body was to be placed to-day in the grave with hers. Then I should be rid of this horrid feeling that I have all the time." I said to Mrs. Robinson, "How long have you had this horrid feeling that you speak of?" To which Mrs. Robinson replied, "Ever since my husband died." I then said to Mrs. Robinson, "Don't you think that the anxiety for the living and the sorrow for the dead causes that feeling?" She says, "No." I said to her, "I know that your sorrows are many; your afflictions are great." "Oh," said she, "I know what sorrow is. This is not sorrow,—this is horror, and I never shall be rid of those feelings until I die." Mrs. Robinson had what seemed to me to be the symptoms of a fainting spell and I turned the conversation from that to fitting up the lot.

Q. What was the conversation in connection with that about her having had communications? A. She said to me, "I know when any member of my family is going to die. I knew when Emma May was going to be taken, for Mr. Robinson came to me and said, 'I am coming for Emma May.'" She said, also, that she knew when Willie was to be taken away, for Lizzie came and said, "Mother, I am coming for Willie."

Cross-examination.

Q. (By Mr. GOODRICH.) Mr. Smith, you are under indictment in this court for the murder of Lizzie, are you not, and awaiting your trial? A. I am, sir.

Q. You have given, I presume, the substance of the conversation that you refer to at the cemetery, rather than the language of it? A. I have given it, the language, as it came from my lips. I remember it very well, sir.

Q. If it had been reported at the time by any one who overheard it, it would have been identical with your repetition of it now, would it? A. I think it would. There is no doubt of that in my mind.

Q. Was that beautiful apostrophe of yours to the flower original at that time, or was it a quotation? A. It was original, as far as that goes, sir.

Q. And you know, now, you have repeated the identical language that was employed by you and Mrs. Robinson? A. I do, sir.

Q. You often resorted to the cemetery with Mrs. Robinson? A. I have been there a number of times with her.

Q. How many times? A. I think somewhere about sixteen times, as near as my memory serves me, — that is to the two, the Chelsea and Cambridge.

Q. The number sixteen is suggestive of some record, perhaps, of the number of visits? A. I can give you them, sir, as I think, pretty nearly, if not quite all, with the occasional and circumstances.

Q. I will not trouble you to do that. You fix the number at sixteen? A. I should say sixteen; it may have been more, I presume it was. But those sixteen times I have a definite recollection of.

Q. If you went sixteen times to the cemetery, I presume you were a frequent visitor to Mrs. Robinson's house? A. I was, sir. I should like to say it was on business, however, sir.

Q. Did you ever have any discussion with Dr. Beers, at Mrs. Robinson's house, on the subject of spiritualism? A. I did.

Q. Fix the time when you had such conversations? A. I cannot give you the date, but I can give you the occasions.

Q. What was the substance of the discussion, or conversation, whatever it was? I want to know particularly what doctrine he claimed to hold on the subject. First give the occasion. A. I was sent for. I received a note requesting me to call on Mrs. Robinson, who at that time was sick. I called there and found her somewhat improved in health, so that she was sitting up. She said she had been sick in bed, at that time.

FIELD, J. Where was she living at that time?

The WITNESS. I think on Hughes Street, near the bridge, in Cambridge. I am not positive that was the street.

FIELD, J. You called and had some discussion about spiritualism? A. That was the first time I met him, and he advanced his ideas on spiritualism decidedly rank. I stated my views, and we had quite a discussion, and we parted rather unpleasantly.

Q. State what he said of his views on that subject? A. He rep-

resented himself to me as being a medium having communications from the spirit world.

Q. Was that the general nature of his statement? A. It was.

MRS. SARAH J. ROBINSON — *recalled*.

Q. (By Mr. STEVENS.) Do you remember, Mrs. Robinson, testifying at the former trial? A. I think I do.

Q. Do you remember testifying to questions put to you on cross-examination by Mr. Waterman? A. Do I remember them?

Q. Do you remember having been cross-examined by Mr. Waterman, the attorney-general? A. Yes, sir.

Q. Do you remember Mr. Smith having testified at the former trial? A. Yes, sir.

Q. Do you remember Mr. Smith having testified that you told him you had had communications from Lizzie in reference to Willie's death before Willie died? A. Yes, sir, I do.

Q. Now, do you remember this question, "Did you hear Mr. Smith's testimony about what you said about hearing Lizzie?"—do you remember such a question as that, and do you remember your answer, "Yes, sir, I do"? Is that correct? A. No, sir, I don't remember answering any such question.

Q. Do you remember the question being put to you, "Did you hear Mr. Smith's testimony about what you said about hearing Lizzie"? A. I don't think the question was put to me. I don't remember whether it was or not.

Q. Do you remember Mr. Smith testified? A. I remember Mr. Smith testified, but I don't know as I remember what he testified.

Q. Did you tell Mr. Waterman in answer to the question he put to you, this, "Did you tell him that you heard Lizzie after Lizzie's death call for Willie?"—did you say at that trial in reply to such a question, "Yes, I did"? A. No, sir, I didn't say so.

Q. Suppose the stenographer's report should so have it, what would you say? A. I should say I didn't say it.

Q. "And that she was coming pretty soon to take him away?" Suppose it should appear in the stenographer's report that your reply was, "I did. I said it to a number," what should you say? A. I should say that I never said so.

Q. Then suppose the further question should have been taken down by the stenographer, "You told Mr. Smith so?" and if the stenographer's report should say "I did," would you say that was correct? A. I don't know as I just understand you?

Q. I am reading now from the stenographic report. I want to know if you remember these questions having been put to you and

your giving these answers? A. No, sir, I don't remember their having been put to me. I state now as I did this morning.

Mr. GOODRICH. The inquiry is whether you remember their being put to you.

Q. (By Mr. STEVENS.) Now, I ask you if this question was put to you, "Did you hear Mr. Smith's testimony about what you said about hearing Lizzie?" and the stenographic report should say that your reply was, "Yes, sir, I do," should you say that that was correct?

Mr. GOODRICH. She is asked to pass judgment upon the correctness of the stenographer's report.

FIELD, J. I do not think you can interrogate a witness in such a way. You can ask her whether she has any recollection of answering as you ask her.

Q. (By Mr. STEVENS.) Have you any recollection of making any such answer? A. No, sir, I have not.

Q. Did you tell him that you heard Lizzie call for Willie? A. No, sir.

Q. Do you remember such an answer, "Yes, sir, I did"? A. I never answered such a question.

Q. Do you remember the next question, "And that she was coming pretty soon to take him away?" and the answer, "I did. I said it to a number,"—do you remember that question and answer? A. No, sir, I don't.

Q. And the next question, "You told Mr. Smith so?" answer, "I did,"—do you remember that question and answer? A. No, sir, I do not.

Q. "Did you say a similar thing about Lizzie before she died, that you heard her father call for her?" Do you remember that? A. No, sir. I don't remember anything about it.

Q. And the answer, "Yes, and she did herself"? A. No, sir.

Q. Did you make any such answer to such a question? A. I don't think so.

Q. You say you didn't hear any such communication? A. No, sir, I did not.

Q. Do you remember this question, "That he was coming in a short time to take her away"? A. I do not.

Q. Do you remember this answer, "Yes, sir, I said that she said so herself"? And did you hear this question put to you, "And do you say the same thing about any one coming after Thomas?"—do you remember that question, and the answer, "No, sir, I have never said I heard any one say so. I told a dream I had about my sister, but I never said I heard any one say to me they were coming. It was a dream about Thomas Freeman. It was about my sister and

her child"? "That was Mrs. Freeman?" "Mrs. Freeman." "Who did you tell that to?" "I told it to several." "To whom?" "To quite a number. I can't tell just who. I know I have told it repeatedly." "What was it that you said?" "I don't know as I can repeat it." Now, you don't recall such questions and answers? A. I said this morning I have told dreams I had. I don't remember anything about the questions and answers of the last trial.

[It was agreed by counsel that the portion of the evidence of Mrs. Robinson given at the former trial, on pages 649 and 650 of the report, might be put in evidence in the present trial.]

Re-direct examination.

Q. (By Mr. GOODRICH.) Mrs. Robinson, Dr. Beers says that the first occasion of his visiting you in Somerville was a professional consultation about your health, and that the complaint was a complaint ordinarily incident to a change of life? A. You mean in Cambridge instead of Somerville?

Q. Was that the occasion of his first visit to you? A. Dr. Beers was never my physician.

Q. Did he ever treat you for any complaint? A. No, sir, he never did.

Q. Did he ever give you any bitters such as he describes? A. I never received any bitters.

Q. Or any other kind of medicine? A. No, sir. I think the physicians are in the room that were my physicians for the last eight years.

Q. Have you thus far to this day been troubled by any symptoms of an approaching change of life? A. No, sir.

Q. Do you know whether that evidence is known to others? A. Yes, sir.

Q. Who? A. Dr. Taylor.

Q. Have you told Dr. Taylor so? A. Yes, sir, and Dr. Nichols, and the matron at the jail.

Q. (By Mr. CRANE.) You heard Dr. Beers's statement in reference to that, that you knew that he was married. When did you first learn that he was married? A. I think it was the April after my daughter Lizzie died.

Q. And your daughter died when? A. In February, 1886.

Q. What were the circumstances under which you found out that he was married? A. After Lizzie died I was very sick. Dr. Stevens was my attending physician at the time. Miss Clough was taking care of me. Dr. Stevens had forbidden any one to come to see me, I was so sick. Dr. Beers called one afternoon, and I was very much worse after his call. Miss Clough asked me to write to him not to

come on Sunday, and I don't remember whether I wrote the note or Miss Clough wrote it and sent it by Charlie to the doctor.

Q. Did he take the note over there? A. Charlie said he did.

Q. Did he report when he came home? A. He did. He brought the note back with him when he came.

Q. The note wasn't delivered? A. No, sir.

Q. Do you know why it was not delivered? A. He said the doctor wasn't in.

Q. Perhaps not what he said, but do you know why the note wasn't delivered? A. I know what Charlie told me.

Q. Did you communicate what Charlie told you to Dr. Beers subsequently? A. Yes, sir.

Q. What did Charlie tell you? A. Charlie told me that he went to the door, and I don't know whether he said a gentleman or lady came the door, I can't tell you. He said to some one who came to the door — he asked if the doctor was in, and he said no, but his wife was in.

Q. Was that the first time that you knew he was married? A. Yes, sir, it was.

Q. How soon after that did you see Dr. Beers? A. I saw him the following day perhaps.

Q. What occurred between you and him? A. Very little that day. I asked him if it was so. He said that Charlie made the mistake.

Q. Then what did you do? A. Well, I supposed Charlie did make the mistake; Willie thought he did, and I thought it over. I felt if he hadn't made the mistake I wanted to know it, and Willie said, "Mother, I don't want you to worry over this. I will find out for you." Willie asked Belle — I think he did when I was there myself, I don't know — when the doctor was coming to the house.

Q. Did he come subsequently? A. Yes, sir, he came.

Q. Now what occurred between you and him at that time? A. Nothing. Willie went to his house when he knew he was at home and asked for him, and they told him he wasn't in. Willie asked to see his wife —

Mr. WATERMAN. Is this competent?

Q. (By Mr. GOODRICH.) You need not say what occurred but what the doctor said after he came to your house. A. He said he had been married, but was divorced from his wife, and she was there at his house on a visit.

Q. What was done with these rings at that time? A. I don't think there was anything done with them at that time.

Q. You received these from him? A. Yes, sir, I did.

Q. State under what circumstances? A. One of them I received, that I was not to marry any one but him.

Q. Which one was that? A. That largest one.

Q. How about the other one? A. The other one he said if I could take it off his finger I could have it. Lizzie took it off his finger, and I got the ring.

Q. Do you know when that was? A. I know I had one given me on the twenty-sixth day of May, on my birthday.

Q. Did you at any time give them back to him? A. Yes, sir.

Q. When was that? A. The morning after he came from Natick.

Q. Who went out to Natick? A. Mr. Smith and I rode out to Natick.

Q. Did you see him out there? A. No, sir, I did not.

Q. How did you know he went out? A. He told me he did.

Q. How soon after your return did he come to your house?

A. Well, he was at my house before I did return, Jessie McDonald told me.

Q. Then what occurred about the rings? A. He came to my house the next morning, but I can't tell you what passed between us; it would be impossible.

Q. What did you do? A. Well, I gave him the rings.

Q. Whether you took them back again? A. I did.

Q. Under what circumstances did you take them back? A. He wanted to take back what he had said to me that day.

Q. Did he say anything more about his wife? A. Nothing more than that he was a divorced man, and that she was there on a visit. That is all I ever knew.

Q. Did you believe at that time he was divorced? A. I did, yes, sir; I had no reason to disbelieve him.

Q. Do you remember of going out to the cemetery with Mr. Smith? A. Yes, sir, I do.

Q. What was done there? A. He planted some flowers on Lizzie's grave, and I think on my husband's and Emma May's.

Q. You have heard what he said just now on the stand? A. Yes, sir.

Q. Do you remember of his making the statement that he said he did? A. If he made it to me at the cemetery, I don't remember it. Mr. John Needham was there the day that the flowers were planted on the grave, at one time they were planted. Another time Mrs. Ingraham was with us. That is the only times, twice, that I was with Mr. Smith planting flowers in the cemetery.

Q. Where did you get that pencil? A. I got it from Dr. Beers.

Q. When did he give it to you? A. I couldn't tell you, there is nothing about that to make me remember it.

Q. Did you go to Hamilton camp-meeting with him? A. Yes, sir.

Q. When was it? A. Well, I couldn't tell the year. I think it was in 1884.

Q. Sunday or a week-day? A. It was on a week-day.

DR. CHARLES C. BEERS — *recalled*.

Q. (By Mr. STEVENS.) You heard the testimony of Mrs. Robinson? A. I did not.

Q. Did you at any time tell Mrs. Robinson that you had been divorced from your wife, and that she was on a visit to you at your house? A. Never.

Cross-examination.

Q. (By Mr. GOODRICH.) Well, it was a fact that you had a conversation with her, didn't you? A. Never; I never mentioned the subject of divorce to her.

Q. Did you ever have any conversation with Mrs. Robinson in regard to her condition, whether as a married or a single man, after your first acquaintance with her in 1883? A. Never.

Q. In 1886, did you have any conversation upon the subject then? A. I don't recollect ever having any conversation. It was understood she knew that I was a married man.

Q. At that time? A. Yes, sir, always known it.

Q. Whether Willie or Charlie came to your house or not you don't know? A. I heard—she told me.

Q. Well, in consequence of Willie's coming to your house you went out to see Mrs. Robinson, didn't you? A. Willie never came to the house to see me; Charlie used to come, bring notes to me.

Q. You never told Mrs. Robinson you were a divorced man, did you? A. Never.

Q. But it was a fact nevertheless, was it? A. Fact.

DR. J. T. G. NICHOLS — *recalled*.

Q. (By Mr. GOODRICH.) Did you hear the testimony of Dr. Beers as to the occasion of his first professional visit to Mrs. Robinson in 1883? A. I didn't distinctly understand what he said was the cause.

Q. Assuming that he was called to treat her for the effects incident to what is called a change in life, I will ask you the question whether by this time that change in the ordinary course of events would not have been consummated? A. You mean in 1883?

Q. Yes. A. Well, the definite answer upon that question, sir, would depend much upon what those symptoms were. Ordinarily five years would certainly dissipate the symptoms due to that condition. Under some exceptional circumstances it may run over a longer time.

Q. If it runs over four years would you consider it an exceptional case? A. Yes, sir, rather so.

Cross-examination.

Q. (By Mr. STEVENS.) It runs very frequently over a great many more years? A. Under some circumstances it does. It depends so much upon the real disturbances it is very difficult to answer that question very definitely.

Mr. STEVENS. That closes the evidence on both sides except what comes from the testimony at the last trial. It is agreed, gentlemen, that what I shall read now was the evidence as given by Mrs. Robinson at the former trial. I read from page 649 of the report:—

Q. Did you hear Mr. Smith's testimony about what you said about hearing Lizzie? A. Yes, sir, I did.

Q. Did you tell him that you heard Lizzie after Lizzie's death call for Willie? A. Yes, sir, I did.

Q. And that she was coming pretty soon to take him away? A. I did. I said it to a number.

Q. You told Mr. Smith so? A. I did.

Q. Did you say a similar thing about Lizzie before she died, that you heard her father call for her? A. Yes, and she did herself.

Q. That he was coming in a short time to take her away? A. Yes, sir, I said that she said so herself.

Q. And did you say the same thing about any one coming after Thomas? A. No, sir, I never said I heard any one say so. I told a dream I had about my sister, but I never said I heard any one say to me they were coming.

Q. It was a dream about Thomas Freeman? A. It was about my sister and her child.

Q. That was Mrs. Freeman? A. Mrs. Freeman.

Q. Who did you tell that to? A. I told it to several.

Q. To whom? A. To quite a number, I couldn't tell just who. I know I have told it repeatedly.

Q. What was it you said? A. I don't know as I can repeat it.

Evidence closed.

CLOSING ARGUMENT FOR DEFENDANT.

BY JOHN B. GOODRICH, ESQ.

May it please your Honors, Mr. Foreman, and Gentlemen of the Jury,—The hour is fast approaching for which the prisoner has been waiting patiently, and impatiently, so long. It is the hour when you shall retire to your jury room, taking with you the issue of her life or her death. She awaits the issue calmly, fearlessly and confidently. At last she is being tried. Suspicion and popular prejudice have had their day, their influence and effect. She has been tried by the newspapers, she has been tried by popular opinion, if you will, and whatever the verdict has been, it has been rendered upon a kind of evidence which shrinks from the presence of a jury. At last she has come to the sanctuary where she shall be shrived or condemned, and where the pitiful suggestion will not be heard, “Everybody thinks she is guilty.” A jury ought to keep well in mind their interest in society, and the importance of the good opinion of their neighbors upon their judgment. But here, for the first time, an issue is raised which is to be decided upon the principles of law,—principles with which no other tribunal than that she has been brought before has had anything whatever to do. And the law has made a provision for this trial adapted and well proportioned to its solemnity and importance. The law recognizes that here there must be no mistake. Popular clamor and prejudice, prejudgment, common opinion may well make mistakes. What is the harm? No issue of life or death is there.

But here there must be no mistake, and that there may be no mistake, the law provides that the trial of this case shall be removed from the ordinary tribunal having jurisdiction of crimes; and it is the only offence the trial of which the highest court of the Commonwealth is required to superintend. The highest law officer of the government is called here to direct and control the proceedings on the part of the government. The law throws its shield of protection about a party charged

with a capital offence, and is in a certain sense his guardian. It sees that the prisoner is properly represented by counsel. It extends to her the government *subpœna* for the production of her witnesses, and better than all that, it insures her by the strongest sanctions, the protection of that body of law which has been the slow growth, the slow accumulation of years, and almost centuries of human experience. Yes, the law says there must be no mistake in this matter. You must arrive at a result, not upon inferences drawn from what is probable, from what is most likely to be the case; there must be here no weighing or balancing of probabilities. There must be here that proof which excludes every reasonable doubt, and the word "reasonable" is almost superfluous, because if you have a doubt in the exercise of your judgment, if you pause and hesitate, that doubt must be a reasonable one. You must know the fact. You shall not snap asunder the thread of life until you know what you are about, and what you are doing, and are ready to answer for it, as you might say, with your own lives.

Well, this is a severe ordeal to which to subject you, Mr. Foreman. It is a great responsibility upon us all. If the prosecution press unduly upon your attention improper evidence from which important inferences may be drawn which have escaped the observation of the court, or the objection of the prisoner, it may be that the prosecution may be guilty of over-straining the evidence. But the prosecution does not ask of you, gentlemen, to strain anything; the law forbids it, and the Commonwealth does not require it. The question of supreme importance is not the unravelling of a mystery, nor the detection of guilt. The matter of supreme importance is a perfect judgment. The Commonwealth feels no sense of humiliation, no sense of the insecurity of its citizens when a person who is charged with an offence is not convicted. Did any such feeling run through the Commonwealth when Amero was sent from yonder jail back to Nova Scotia, discharged of his indictment? And when Cahill was brought over from the other continent and held upon the charge of murder, and released and sent back, did anybody say, "Surely the citadel of justice is falling, and our security has become weakened, and something must be done"? Why, no. If in nine cases out of ten where parties are presented for trial they shall be found to be not guilty, the Commonwealth rejoices. The Commonwealth asks for no victims. It asks of you simply to do your duty.

Sometimes there is a sort of presumption in the minds of honest people, who mean to think right, that a party in the dock charged with an offence must be guilty. Some people look upon the features of a person charged with crime, and instinctively shrink from them, and can hardly help feeling that it would be a pity if justice should

be cheated of its victim, for the party ought to be guilty, because otherwise he would not be here. Why should the prisoner at the bar be in her present position, if in all probability she is not guilty? Well, let us see what brings her here.

When a great crime has been committed, at once the public mind looks about for some one towards whom to direct suspicion, and it always finds its object; and from that moment every circumstance is eagerly scanned and enlarged, and at last there becomes in the public mind such a general accusation that, if it has not already done so, the police system of the district recognizes it, complaint is made against the party, and he is brought before a police court for examination. And there what is the issue? Never before has this prisoner met the issue that we are trying now. The judge of the police court who committed the prisoner to jail without bail did not decide the question of her guilt or innocence; he had nothing to do with it. He did not have to find her guilty to send her here. It was only his duty to say, "I find such criminating circumstances as in my judgment makes this a reasonable case for judicial inquiry by a tribunal having jurisdiction of the subject." He performed his duty. No one objects to that. We could not expect anything else. And then the grand jury of the county came together, and they said as the next step, "Let us now take counsel together, and exclude all evidence which might tend to exculpate the prisoner, and see if, taking the testimony offered in behalf of the government alone, that would be sufficient to convict, in our judgment, or if we do not think so, does it on the whole make a case for trial before a jury." The grand jury could not help so finding in this case; we do not claim that the grand jury did not do their duty. And then after a lapse of time the prisoner comes at last, for the first time, where she can be heard. She comes before a jury of her countrymen; she comes before men who are termed "good men and true" of the county of Middlesex. They are men of intelligence,—for no one will charge her with having exercised the beneficent right of challenge against a juror on account of his apparent intelligence. They are men who are presumed to be able to do the duty which not only the law requires of them, but which the nature of the duty requires of them, and that is a duty of great solemnity, and of almost supreme delicacy and difficulty. It is a duty which, in view of the issue depending, you may well feel solemn in entering upon; for what must you do? Why, you must try the defendant without regard to any impressions that may have been weighing upon your minds in common with those of your neighbors for the last year and a half. You said, all of you, gentlemen, that you had not any bias or prejudice against the prisoner, and most of you, if not all, said you had formed

no opinion in regard to her guilt; but under the circumstances I did not construe your statement — neither did the court, neither would anybody — to mean that you had not a sort of opinion. You could not help it; for the men of Middlesex County read the papers, and discuss matters of public interest, and this case and its attending circumstances as detailed by the press, and as rehearsed and discussed in conversation for the last year and a half, cannot have escaped you, and could not have failed to produce upon you a sort of prejudgment in the matter. Of that we cannot complain; but now, gentlemen, if every trace and every effect of anything that has happened in this world, so far as it relates to this case, and your knowledge of this case prior to the time that you took your seats upon that panel, is not effaced from your mind, so that you cannot lay down before you, as it were, a perfectly pure, white, blank surface upon which to write your judgment, in just so far you fail to do your duty, and just so far you lend your countenance and consent to a judgment against the prisoner prohibited by your oath, by your conscience, I believe, and certainly by the law of the land. I do not know how a more solemn duty than this can be imposed upon anybody. I do not know of any more solemn issue than life or death, and I do not know and I can hardly conceive of any charge more grave against a human being than that of the wilful destruction of human life. Can you, Mr. Foreman and gentlemen of the jury, bring to this case a forgetfulness of the outside world? Can you apply yourselves solely to the evidence as it has been submitted to you? Can you restrain yourselves so that you will only consider those matters which you will be allowed by the court to consider as competent in this case? And can you bring to this case a judgment which shall be influenced alone by what you have heard in this court room, which was proper and competent for you to hear? And if upon the walls of your memory during this case there has been written any lines which were not written by witnesses upon the stand, or which were not indited by statements which were made for your enlightenment and consideration here, can you brush them away so that you shall see nothing but those things which you feel that this honorable court intend you to see and entrust to you for the decision of so mighty an issue?

Now, gentlemen, whenever, as I said, an offence has been committed of gravity and of this consequence, the first inquiry for the detection of the offender is always directed to those persons who seem to have been most immediately connected with the affair. Those persons are carefully scrutinized, their conduct investigated, and every circumstance tending to criminate them is carefully weighed. The result has been in this case that the prisoner at the bar is brought before you for trial, and the first thing that men do in

pursuing an offence, in undertaking to detect the perpetrator, is to inquire concerning the means, opportunities and motives of the accused, and how far they exclude the means, opportunities and motives of others. The government charge the prisoner with this homicide, and the first thing which is proper for your consideration is, whether there has been a homicide. Then you will proceed to consider whether the prisoner at the bar appeared to have the means, or was known to have possession of the means and instruments apparently employed in the perpetration of the homicide. You will consider then the question of opportunity, then the question of motive, and then a variety of collateral facts which may go to strengthen either of the main propositions.

Before we enter upon the details of the evidence in this case, let me submit to you the principles by which you must be governed. In the first place, upon the main issue, whether the defendant is guilty or not, there must be no mistake, there must be full proof; and if any single fact or circumstance on which the main question depends is urged against the prisoner as proper matter from which you are to draw an inference in regard to the main question of her guilt, that single and every fact and circumstance must be proved just as conclusively as the main question itself. You cannot decide a main question upon a superstructure built upon probabilities, but only upon solid stones of fact; and every part of the structure must be just as strong in itself as the structure as a whole. In the second place, all these circumstances and facts which go to make up your judgment must be consistent with the theory of the prisoner's guilt, and they must be inconsistent with her innocence. They must be of such a character as to exclude every hypothesis of her innocence which is rational, called sometimes "reasonable,"—the same thing. In other words, the circumstances, each one upon which guilt depends, must be proved fully and conclusively, excluding every hypothesis of innocence, and the main fact must be determined by you upon the facts and circumstances about each one of which you have no doubt.

Now, gentlemen, one of the most important matters for consideration is the conduct of a party charged with an offence. There are persons of such character that when the breath of suspicion is directed against them it is soon silenced. But no one can escape, to be sure, suspicion and calumny. There is nobody pure and good enough for that. The greatest pleader before the bar of this State said upon one occasion, you may remember:—

"I have known and loved many, of the living and of the dead, of the purest and noblest of earth and of sky; but I never knew one, if conspicuous enough to attract any considerable observation, whom

the breath of calumny always wholly spared. Be thou pure as ice or chaste as snow, thou shalt not escape calumny."

I am not here to claim for the prisoner at the bar that degree of perfection indicated by that quotation, but even that character you see, is not excluded from calumny. When a crime of this nature is committed, it is often difficult of detection, and sometimes it is said that if you are too strict in regard to proof it is almost impossible to convict, and that really in cases of poisoning the principles of evidence ought, if not to be enlarged, to be pretty liberally construed, because otherwise there could be no conviction. The Commonwealth does not want to convict in such cases unless there is proof. It makes no difference whether cases are hard to detect or not. This is an offence where, if there is no evidence of the possession on the part of the prisoner of the means of poisoning, and it does not appear that the prisoner ever had possession of the means of death employed, the jury must always consider and attach great importance to the conduct of the prisoner. It has been said that in a true case of guilt there is a reasonable assurance that a guilty person cannot escape, if you will carefully scrutinize his conduct and his bearing. You remember the famous Knapp case of Salem, and how Mr. Webster described the murderer. He said something like this:—

"The guilty soul cannot keep its own secret. The human heart is no place for the residence of such an inhabitant. The possessor of such a fatal secret soon becomes possessed by it. It becomes his master. He feels it beating at his heart, rising to his throat and demanding utterance. He thinks the whole world sees it in his face, reads it in his eyes, and almost hears it in the very silence of his own thoughts. And when circumstances begin to embarrass him, and the net-work of circumstances to entangle him, then the guilty secret struggles for expression still more powerfully. It must be confessed; it will be confessed; there is no refuge from confession but suicide, and suicide is confession."

Has Webster drawn a picture of the prisoner at the bar? "It betrays," says Webster, "his discretion; it breaks down his courage; it conquers his prudence." When did the prisoner at the bar betray her discretion? When was her courage broken down? And when was her prudence conquered? Tell me something that the woman has said, something that she has looked since August of year before last when she was arrested, that lends any color to this picture of a murderer. There is something, Mr. Foreman, to start with, in the attitude of the prisoner. Something has sustained her during that time. Has it been nerve simply, and why not a consciousness of innocence? She has sought earnestly for the most speedy determination of her case, and afforded the government the freest opportunity of

investigating her conduct or to converse with her; in this and the trial previous to this she waived the privilege which the law mercifully extends to all prisoners of exemption from any inference against her because she does not take the stand, and has eagerly sought the first and every opportunity of putting herself under the examination of the highest law officer of the State, and the strictest scrutiny of the jury. Do all these circumstances, gentlemen, indicate anything like a consciousness of guilt? When you consider the woman's physical condition, is there any exhibition of nerve about it? Does not sometimes confidence proceed from a sense of innocence? Does it not sometimes produce courage, and keep up the spirits? And on the other hand does not guilt sometimes depress the spirits? Does not guilt sometimes conquer prudence, break down courage, and betray discretion? And does it not usually do so? Is that not the almost uniform workings of guilt? You will be told, "Yes, indeed, the prisoner is a remarkable woman. We all admit that she is a woman of nerve." Yes, Eliza Fanning in London, the servant girl who was tried for poisoning her mistress's family, bore the trial with wonderful composure, and they said that on the scaffold she looked like an angel of light, and when the fatal mistake of her execution was beyond repair her innocence was acknowledged, — Eliza Fanning exhibited nerve. Those circumstances are not rare. No, gentlemen, you will not predicate against this woman the supposition, the probability or the guess of nerve. Will you give her upon this point of conduct the benefit of what the greatest philosophers, the greatest jurists, the greatest minds have declared to be the ordinary workings of the human mind in such a case? If you do, gentlemen, she will not suffer at your hands by any suggestion that she is a woman of great nerve. She is not a woman of great nerve; she is not built for nerve, she does not exhibit it. Her composure is not the composure of assurance; it is not forced. Did anybody ever see her different from her appearance to-day? What an experience she has been through! Six long days within these last two months upon this very business, and undergoing this same trying ordeal; and after some days sitting here, the centre of a concentrated attack of interest and of curiosity, in a position which in itself, surrounded by the most sustaining influences, must be enough to depress even the stoutest heart, you find that she is able to take the stand, and submit herself with dignity, with propriety, with gentleness, and with calmness to the most searching cross-examination of the attorney-general; and I shall ask you by and by, gentlemen, to think of some particular in which what will be described to you as the false structure of her testimony has been torn down, displaced; in what respect her statements have been weakened as the result of whatever of skill or

ingenuity could be brought to the accomplishment of that purpose by the attorney-general.

It is said that this is a remarkable case. It is indeed remarkable, principally in this, that such a woman should be charged with such a crime. It is a remarkable case, but you are not going to make any mistake about it, and before convicting such a woman of such a crime, you are going to know about it. I say you are going to know about it. Not exactly that. If there is any mystery about the matter, you have nothing to do with unravelling it. God save you from the responsibility of deciding between this prisoner and other persons whose lives are also in jeopardy for a similar offence. Well might you shrink from the duty of casting some fatal lot. With that you have nothing to do. Your curiosity cannot help you to the solution of any mystery here, because curiosity is not an element of your deliberations; the simple question for you to decide is, whether you can say that you know that the prisoner at the bar is guilty.

The government, gentlemen, in order to establish the fact of the prisoner's guilt has offered evidence which it is claimed tends to show that the prisoner had the opportunity to commit this crime, and that certain circumstances existed which cannot be reasonably explained except upon the hypothesis of her guilt, and which are inconsistent with the theory of innocence. Those circumstances they say are that the prisoner at the bar was a beneficiary named in a policy of insurance, and that she would be benefited by the death of Prince Arthur Freeman; and they say that such was her condition at the time, financially, that the desire to obtain that money would be a sufficient motive for the perpetration of this crime. They say that you ought to be reasonably satisfied that she was in such desperate straits that she would kill her brother-in-law in order to get two thousand dollars, and they do not pretend that any other motive exists for the crime. There is but one other motive in the world which could exist for it, and that would be a motive for which she would not be responsible. She was listed with Lucretia Borgia, of whom it may be said that murder was the least of her crimes; and it is said that she is a monster. I do not know that the law hangs monsters. They ought to be restrained in some way. I do not think, gentlemen, that the government will dare press upon you the inquiry whether it is not possible that this woman is the victim of an uncontrollable depravity. If such be the case pity her; you cannot condemn her. But if her motive was what the government say it was, to get possession of two thousand dollars in money, we will proceed to inquire about the sufficiency of that motive. What is a motive? Something thereunto moving, and by setting the mind of a party in

action, directing it towards some consummation, the accomplishment of some result.

In June, 1885, Prince Arthur Freeman, brother-in-law of the prisoner, lived in her family. They were apparently on the best of terms. If it had not been for the testimony of one Dillon, I think, who said he heard something on the occasion of the setting up of a stove-pipe which indicated that the prisoner was feeling cross, it might be said that the testimony is uniform in the establishment of the fact of a perfect accord, and friendly attachment between Freeman and the prisoner. And why should it not have been so? Freeman appeared to be a good man, and a kind man, and whatever else the prisoner at the bar is, with one accord friend and foe are obliged to say she is to all appearances a kind, affectionate and devoted woman. I think I may pause here to say that if any fact in this case is established beyond all reasonable doubt, it is that the nature of the defendant is that of a kind, affectionate and generous woman; and the swiftest of all witnesses against her, those who were impatient for the opportunity to spit out something in detraction of the prisoner even in advance of the interrogation of the counsel for the government, when asked what was the conduct and the bearing of the prisoner towards her brother-in-law, confirm it. I do not know anything in the question that would bring them down particularly to a fair, reasonable and moderate statement about it; it was their sudden and strong impression of the truth. There is one thing, they thought, we must not be swift about. We must at least go so far as to say "always kind and affectionate before strangers"; and when a witness was asked if he knows of a human being except himself who ever saw anything indicating that she was not kind and affectionate at all times, he acknowledges that he does not. Prince Arthur Freeman and the prisoner were on friendly, kind and affectionate terms. Then there must have been a more than ordinary powerful inducement to commit the crime of murder under such circumstances. A person smarting under a sense of wrong or injury, or suffering an alienation of feeling and sentiment, may come to regard another person with aversion and hatred; but in this case there is nothing of that, and therefore the government is obliged to urge upon you with greater force than would otherwise be necessary the sufficiency of two thousand dollars as a motive for the killing of Freeman.

In order, Mr. Foreman and gentlemen, that I may proceed orderly in the analysis of the evidence in this case, I am obliged, just here, to refer to the position of the government upon this point of motive in relation to the death of Mrs. Freeman some time previously. There may be a sort of refinement of reason by which it may be claimed that on the whole it would be easier for the government,

upon the trial of the prisoner for the murder of Prince Arthur Freeman, to show that she had a motive which required the killing of two instead of one. It would naturally seem, however, to require a more powerful inducement to kill two persons than to kill one. But the government claims the right, and evidence has been properly admitted of the death of Freeman's wife in February previously, limited and qualified, however, to a particular consideration. The law does not allow the government to prove the commission of one offence by proof of the commission of another offence. The law under which we live and under which you are now acting is the common law. Under the civil law, which prevails in some parts of the world, it may be shown upon the trial of a person for one offence that he has committed others, and a general delivery, as it were, made of all offences which can be brought up against him. That is called the civil law. That is not the law here ; but upon the question of motive, if it can be shown that a person was foolish enough, or wicked enough to make a scheme which, necessarily involving the compassing of one death, nevertheless includes the killing of two persons, it is competent to show it. So the government say, gentlemen, that the prisoner killed Mrs. Freeman with the intention in her mind, and upon the motive, and upon the inducement moving her thereto, of removing an obstacle to her solicitation of Prince Arthur Freeman to transfer a certain policy of insurance to her upon the death of the wife, and then of killing Prince Arthur Freeman, and so obtaining the possession of two thousand dollars, — the amount of the policy. Well, it may be possible that the heart of the prisoner could be thus depraved. Of course, there is no inherent probability of it, and you won't believe it unless you are obliged to. It is barely possible to conceive of two thousand dollars as a motive for the killing of Prince Arthur Freeman, but that it should be the motive for killing Prince Arthur Freeman and his wife both, is a suggestion which may make us pause and hesitate, and I do not believe, gentlemen, it is going to give you any trouble ; but still I must review the circumstances of Mrs. Freeman's death to remove out of the way, in the first place, all that is alleged connecting the prisoner with the death of Mrs. Freeman, in order that we may get at the real question of motive which is before you, and that is, the connection between this insurance money and the death of Prince Arthur Freeman.

The government say that the prisoner conceived the idea of killing her sister ; that shortly before her sister's death she was heard to say that the insurance money ought to be transferred to her in the event of her sister's death ; that she undertook to make certain provisions for the custody and care of the children before there was any reasonable apprehension of death, and was guilty of such strange and un-

usual conduct in relation to the family of Mrs. Freeman as to excite, at once, reasonable suspicion, or to afford reasonable proof, that she meditated murder. The evidence in support of the claim that Mrs. Freeman was poisoned is circumstantial entirely, and not that kind of circumstantial evidence which approaches so nearly to direct evidence as was suggested by the district attorney in his opening. You will remember he said that if you see the track of a horse's hoof upon the sand, and carriage wheels in connection therewith, the evidence that a carriage has been there is just as good as the evidence of a person who saw it, and yet the one would be circumstantial and the other direct evidence. But upon what issue would it be just as good? That is the question. Would it be just as good upon the question of whose horse it was? The print in the sand would determine that a horse had been there, but if the issue was whether it was my horse or yours, Mr. Foreman, the circumstance would be of little weight compared with the direct and positive evidence of some witness who saw it.

The government, as I say, has undertaken to prove some circumstances and some conduct of the prisoner from which they say the inference that she poisoned her sister is to be drawn. Those circumstances all depend for their certainty upon the testimony of witnesses, and we at once recognize the fallibility of the testimony of all the witnesses to that matter for this reason: It does not appear that for a year and a half—or until the arrest of the defendant—there was any occasion whatever for any of them to recur to any of those circumstances. In that interval the memory of these witnesses must of necessity have become much weakened as to details, unless they were persons of unusual strength and power of memory. I hardly think, Mr. Foreman and gentlemen, that you would undertake in the common concerns of life to declare with certainty the precise language, the precise date of any statement, or of any circumstances which might have occurred upon either of different dates at about the same time. So we see that in the beginning it is not one of those matters of a single circumstance that a person knows about, and if he knows it at all, he must know it right. If a man has ever been to New York he knows that he has been there; but if he went there half a dozen times in one week, and upon some one of those times something happened, the probability of his remembering the exact occasion upon which anything occurred, and exactly what was said and done, is very weak as compared with the fact that he went to New York.

Now, if you please, gentlemen, before the death of Mrs. Freeman, and before the prisoner at the bar proceeded to kill her, as it is claimed, and had killed her by the administration of a fatal dose of arsenic,—

before that time there is absolutely, and can be in the nature of the case, no evidence whatever of any previous intention, except as it may be inferred from subsequent facts. She, of course, could say nothing about the matter until after it appeared that Mrs. Freeman was going to die, and the government claim that she was not going to die until after Mrs. Robinson had administered to her a fatal dose of arsenic. After the deed was accomplished, facts and circumstances are suggested from which you are asked to look back to the time previous to the commission of the crime and determine the fact that at such previous time the prisoner at the bar meditated the killing of her sister.

A great number of witnesses have been produced by the government, relating to Mrs. Freeman, many of them upon trivial points, who have given such a variety of dates and circumstances, that of necessity I am required to give them a pretty careful analysis. I am going to do all that I can, gentlemen, to relieve your weariness, though I know every one of you will say, "Do not shorten by a single moment the fullest extent of time that you believe that you can reasonably employ in aiding us by an analysis of this subject. The subject," you say, "is too great for us to consult our convenience and comfort. It is too important, it is too vital, it is too sacred for that." But, gentlemen, I shall review as concisely as I can all the material points in the evidence that has been submitted to you.

I desire to say, in the first place, before entering upon what the witnesses have said to us, a little something more about the situation in which things were when the prisoner was charged with having killed her sister. Who was it she killed? Her sister, — of her own flesh and blood. Why, how did she become so alienated from a sister as to make of her more even than a stranger or an outcast? When it comes to one's own flesh and blood, when it comes to a matter of murdering a daughter, or a son, or a loving sister, we want proof. Do not bring A, B, C, each with his little contribution of innuendo and insinuation, and conflicting and inconsistent and insupposable and, in some cases, absurd statements of what was said at some time or place or other, and ask out of that hodge-podge to find that a sister would murder her own flesh and blood.

There are no other facts. We are confined to those, so far as the evidence goes, except what appears, which cannot be contradicted, which it is agreed upon, or rather which so far as the evidence goes is conclusively established.

Many years ago a young woman just coming into maturity takes her little sister, fourteen years old, by the hand and goes aboard a steamer bound for a strange land, alone. They are orphans. The

two sisters cling the more closely to each other ; and there is no object upon whom they can bestow their affections, in whom they can repose their confidence, to whom they may look for counsel, for love, for cheer, for comfort, except each other. They arrive here ; they live together ; they do not separate except upon the exigency of providing separately for their support, and then they meet upon every possible occasion. And I thank the government for calling Mrs. Bates' attention to the circumstance that Mrs. Freeman said, on one occasion when she had given the prisoner some assistance in money, "She would do the same thing for me under the circumstances." They were two sisters ; they loved each other ; they never had, so far as you have any reason to suppose, a disagreement in their lives ; there has never anything passed between them inconsistent with sisterly love, confidence and affection. What evidence in this case throws any doubt upon the character of their relations ?

That is the kind of a sister, it is said, that the prisoner thought it was best to kill as a preparatory step to another enormous crime that she proposed by and by at her leisure to commit, provided she ever got a chance to do it. The killing of the sister did not put the prisoner any nearer the money at all. She had got to run the risk of getting an assignment made to her, and upon the evidence what a fearful risk she ran. How near that policy came to being transferred to the children, in which case she would not have obtained the money. You will consider that circumstance in connection with this alleged motive, and that the powerfulness of the motive always depends a good deal upon the certainty of the result. Here was a result so uncertain, in point of fact so nearly failing of accomplishment, as to make it a case where the highest crime of which a human being is capable, is committed for the purpose of preparing an opportunity to make further doubtful experiments, upon the result of which would depend the taking or the sparing of another life. On the face of it it is preposterous. I will not detain you longer by analyzing the matter whether or not you find it as a fact that she killed her sister for the purpose of setting in motion afterwards a train of circumstances which she hoped might bring about the possession of two thousand dollars of money.

Now, the government say, to show that the prisoner undoubtedly intended the murder of her sister, that after the deed was done she began to talk about the matter of insurance. The evidence of this is limited to one or two individuals who had various conversations with her at times considerably subsequent to this time, after the death even of Mrs. Freeman, who undertake to locate the precise dates of certain conversations with her. It comes from witnesses whose testimony, even if it were consistent in itself and came from witnesses

who did not have to come back to the stand and say, "After all I made a mistake," "You know in times like this it is natural that we get confused," but came from witnesses of the most careful, prudent, moderate and conscientious minds, you might well receive with caution. For you are not going to find an issue against the prisoner upon the question of a date, where it would make a difference, where it was one day or another day about the same time.

But when all the testimony of that sort connecting the prisoner with any motive for the murder of her sister comes from witnesses who do have to come back on the stand and say, "I find I have been contradicted. I am put in a bad position. I want to take it back. I did make a mistake," and where we find that no circumstance tending to support the theory of motive as regards the sister comes from any witness in whom you can have any confidence, any certainty of their memory, — assuming that you have the most perfect confidence in their honest intention, — I say that you cannot say that you find any of those facts or circumstances proved beyond reasonable doubt. In other words, you cannot, Mr. Foreman and gentlemen, say, and the time will never come in this case when you will say, "We find that before the death of Mrs. Freeman the prisoner at the bar, Mrs. Robinson, did say that her sister would not get well, and then she was going to have the insurance made over to her." When that statement comes from any witness, be it Belle Clough or Mary J. Wright, or whoever it may be, you are not going to snap asunder the thread of this woman's life on any such testimony.

At this point Mr. Goodrich suspended his argument until morning, upon which the court addressed the jury as follows: —

FIELD, J. Gentlemen of the jury, before you are sent out to-night, permit me to say we do not think it worth while for you to consider the case until the arguments of both sides are completed, and until you are charged by the justice who will deliver the charge to you. It is not worth while for you to attempt to consider it piecemeal.

Adjourned to 9 o'clock A. M.

FIFTH DAY.

FRIDAY, Feb. 10, 1888.

The court came in at nine o'clock and Mr. Goodrich resumed his closing argument for the defendant as follows:—

Mr. Foreman and Gentlemen of the Jury,—Before proceeding to an analysis of the evidence offered by the government in support of the indictment let me suggest to you, what is obvious enough, that there seems to be three distinct classes of evidence. The first is the testimony of the experts and professional men, of which I have no criticism to make. Another class of testimony comes from prudent, moderate, careful witnesses, like Mrs. Hunt, Mrs. Marshall, Mrs. Barker, and the clergyman, Mr. Crawford, produced as adverse witnesses. You will remember numerous witnesses of that character, and you will notice that there is another class of witnesses, and all the testimony that is really, taken by itself, damaging to the prisoner comes from this class; such witnesses are Mrs. Wright, Miss Clough, Desmond the broker, and you will recognize at once the rest of them.

Now, it is noticeable that these witnesses appear to be extravagant and ready in all their statements, and give you, at all times, the exact date and day upon which any material fact occurred, without hesitation. They are uniformly persistent in giving the exact language; they will not admit that their recollection can be in any degree at fault, even in respect to the exact words used. You have noticed that, whenever their attention has been particularly called to the point of their testimony being the substance of the conversation or the exact language, it is always the exact language. The most conspicuous instance of that was Smith, who repeated to you, you remember, the touching and poetic outburst of rhetoric and piety which he says he indulged in over the grave of Lizzie. It was original at the time, and he tells you that if a short-hand reporter had taken it down when uttered he could not have repeated more nearly the exact language that he gave to you. You see the absurdity of that. You know better, of course. My object in calling your attention to this is to

ask you to notice it in connection with the fact which has appeared in the case, that this last class of witnesses that I have spoken of, and in fact the other witnesses also, have been in communication with the officers of the government or their agents. You will remember that in one case the counsel could hardly allow a most careful and prudent witness called by the government to testify that she was ignorant on certain points that were inquired about, and it was proposed to call officer Cavanagh, who had had an interview with her, for the purpose of contradicting her.

Now, gentlemen, in a single word, all this evidence, coming from this last class of witnesses, has been strained through a government detective, officer Cavanagh. When it comes to certainty about language and dates, you are not so sure how much of it is pure recollection on the part of the witnesses or how far their testimony may have been affected by their conversations with officer Cavanagh. In other words, with respect to that class of witnesses it may well be that their evidence is three quarters their own and the other quarter is Cavanagh. A good deal of evidence in this case bears the mark of officer Cavanagh, who has been working it up.

Another point to be borne in mind upon this matter of exact language and of particular dates is, that much depends upon the remoteness of the time which is testified to. You will remember an occurrence which happened last week or within the last few days, but an occurrence which happened several months ago will be more dim in your memory, and you will with still greater difficulty recall a circumstance which occurred a year and a half ago, especially when intermediately there has been nothing to recall your attention to the circumstance and when no reason exists why your mind should be particularly charged with it. You will remember that no suspicion was directed towards Mrs. Robinson, and that there was no suspicion whatever that the cause of the death of Prince Arthur Freeman and that of his wife was not from perfectly natural causes, until the summer of 1886. Now, during all that time whatever knowledge any witness may have had of the circumstances connected with those deaths would very naturally have passed, to a certain extent, out of the mind, become eliminated from the mind, naturally, from the lapse of time. I say this now that I may not, in the case of each of these swift witnesses, be obliged to caution you particularly to receive their testimony with a great deal of care.

Now, in the first place, we are obliged to consider the circumstances connected with the death of Mrs. Freeman, for this reason: The government asks you to find that the prisoner killed her sister before she killed her brother-in-law, Prince Arthur Freeman, and although she is only indicted and is only tried for the murder of

Prince Arthur Freeman, you are asked to find affirmatively the fact that she murdered somebody else first. That would be entirely immaterial in itself, because the law says that if you know that fact you could not consider it for a moment in connection with this case. It would be putting upon you a terrible burden, an awful task, to ask you to prevent your minds from operating in a way that would seem to you to be natural, and to say that you would not be allowed to draw an inference from a fact which in the ordinary operation of the mind you might judge would be a fair one; but the law says that you cannot do it, and, Mr. Foreman and gentlemen, you will not do it. It is a hard task, but it is a task that you must accomplish, and if you disregard it, just so far you consent to an unjust verdict, in case it is adverse to the prisoner.

Now, it is admitted that the previous death of Mrs. Freeman, even by poison, even if that poison was administered by the prisoner herself, is of no account in this case unless the defendant, at the time that she killed her sister, had then in her mind the purpose of killing Prince Arthur Freeman, her brother-in-law, for which she is now on trial. It must have been from the same motive, for the same purpose, in pursuance of the same plan. In other words, if she conceived an intense aversion to her sister, a hatred towards her, a desire to kill her from pure diabolism, and did so, having no thought at the time of killing her brother-in-law, Prince Arthur Freeman, and then afterwards conceived the purpose of killing her brother-in-law for the sake of getting two thousand dollars and the two thousand dollars was not connected with the killing of her sister, you must not consider them together. It is necessary to show that in each case her motive was to obtain two thousand dollars.

It is of no consequence in this case why she killed her sister until some evidence is offered indicating that fact. Therefore I shall consider first the alleged facts in regard to the death of Mrs. Freeman.

Well, in the first place, was Mrs. Freeman poisoned at all by anybody? There is not only, I submit, a very reasonable doubt of this, but there is not even a high probability that she died of poison. In the first place, the doctor says that, having been sick of pneumonia, a series of symptoms afterwards set in which at the time were not suggestive of arsenical poisoning in any way, but now, looking back in the light of subsequent developments, it would seem that they were consistent with the theory of arsenical poisoning. The doctor says he kept no record and therefore for his recollection of the symptoms at the time he must depend upon his general impressions. But he says she had those symptoms which — and this is the strongest thing he says — were consistent with arsenical poisoning; but he says, and all the doctors say, that there are lots of natural diseases

which produce the same symptoms, and Dr. Nichols says that any disease which produces inflammation of the stomach would produce those same general symptoms, so that nobody would suspect a case of poisoning simply from the appearance of those symptoms in that case. Well, that is really all the evidence there is about it. It is somewhat impressive to produce medical experts and let them give the result of chemical analyses and describe the processes by which they did it. It is impressive; but, gentlemen, Professor Hills told you that when he had reached a certain stage of his analysis he abandoned all further inquiry, because the results of any chemical analysis would be worthless in the investigation of the case, it having appeared in the progress of the examination that the body had been, in common parlance, embalmed, and therefore at that point he stopped. He made no quantitative analysis whatever, because, as he said, it would be worthless. Professor Woods, also an authority unquestioned, and, so far as I know, never seriously criticised, — I am sure I shall not undertake to do so, — Professor Woods, the very highest authority, tells you that the results of any chemical analysis upon a body which has been embalmed, in reference to the question whether or not death was caused by arsenical poisoning, would be absolutely worthless; that is, you could not take them into account. The government knew this, gentlemen. I do not know why they put Dr. Hills on, when he must have told them that. He made a report of the reasons why he did not tell how much arsenic was in Mrs. Freeman's body. He reported to the authorities how much arsenic he found in Mr. Freeman's body, but he did not make any such report with reference to Mrs. Freeman, and he undoubtedly told them the reason why. He told them, no doubt, that it would be worthless, it would be of no use. Yet he was produced and put upon the stand; why, I do not know. It may be that the government thought it might not appear in the course of his evidence whether his analysis was quite worthless or not. It is possible they thought that we would not develop that fact. It was a waste of time, and you, gentlemen, will not consider for a moment the fact that there was any arsenic found in Mrs. Freeman's body.

The doctors all agree that you cannot predicate the cause of death from the symptoms alone with any sort of safety. Dr. Davison was asked whether, taking the symptoms in connection with the presence of arsenic in the corpse of Mrs. Freeman, what then would be his opinion about the cause of the death, and he said, taking the two together, he would say that the death was caused by arsenical poisoning. But no expert has said that from the symptoms alone the cause of death could be predicated with any sort of safety, but, on the other hand, they have told you expressly that it could not be.

Now, gentlemen, can you be seriously asked by the government to find that Mrs. Freeman was poisoned? Dr. Davison is of the opinion that she was, because he has a perfect right to reason from one case to another and he may make up his opinion from a standpoint that you cannot make up yours from, and the necessary result of it is this, that his opinion therefore is not sufficient. If he made up that opinion from exactly the same data from which you make up your opinion, it would not then be sufficient, conclusive, because it is his opinion merely, and that means a probability; on the whole, the most likely, the most probable cause. That is not sufficient for you. You must find that it was the cause of death beyond all reasonable hypothesis to the contrary, and that it would be inconsistent with any other reasonable theory. You have got to find that it was so. When a man gives his opinion he does not say that it is so, but you must say that it is so, on the whole evidence. The doctor only says he thinks so, and you cannot find that the fact was so because another man thinks so.

Mrs. Freeman, then, so far as the evidence in this case goes, did not die from the effect of poison. That is, it is not proved. We do not know what she died of. You have not the evidence before you, Mr. Foreman and gentlemen, from which you can determine the question. There are not sufficient facts before you from which you have any right to draw the inference that Mrs. Freeman died of poison. You cannot do it without going beyond the rules of law in regard to evidence. You are not going to do that. You are going to be as careful in applying the rules of law to the facts of this case as shown by the evidence, just exactly as careful, as the presiding justices of this court would be. You are going to exercise not only ordinary care and reasonable care, but that extremity of care of which you are by nature capable.

Mrs. Freeman, then, it is not proved, died of poisoning at all. We might well stop there, but I am obliged, nevertheless, in reviewing all the evidence in this case, to proceed now to the question whether or not, if it were so, if it were proved that there was arsenic found in the body, it could not reasonably be accounted for except by the fact that it had been put there before death. If such were the case does it appear in evidence that the prisoner had any connection with it? It is of no account in this case what Mrs. Freeman died of unless the prisoner was connected with it. What is the evidence on the part of the government that she was connected with it? It is said that, in the first place, she had an opportunity to do it if she wanted to. So did anybody who watched with her at any time over night. That does not amount to much. It is easy to get an opportunity to commit an offence. That amounts to very little. Was she guilty of any suspi-

cious conduct towards her sister which was indicative or which was apparently the result of an intent to kill her sister? The government witnesses all give her a character during that sickness which is utterly inconsistent with that. They justify her. Rev. Mr. Crawford, called as an adverse witness, says she was extremely solicitous about her sister's condition and welfare, and seemed to be extremely anxious about her getting well, and Mr. Crawford said that he had several interviews with her in regard to the disposition of the children. He says that she was devoted, attentive and faithful to her sister, just as might be expected of any sister, and Dr. Davison says the same. He is a physician and would be more likely to observe the conduct of the attendants than anybody else. I will not go through the catalogue, but you remember all the different persons who saw her during her sickness, and you will not recall the name of one single witness for the government who ascribed to Mrs. Robinson during the sickness of her sister anything but such conduct as would be expected of a kind and loving sister. There was nothing in her conduct, then, that would give any color at all to the idea that she meant to kill her sister.

Then, it is said, that at that time she was in a situation and was surrounded by circumstances which would account for her killing her sister; in other words, she had a motive; there was an impelling and inciting cause to the commission of this offence, and it is claimed that she was in such straits financially that you may well believe that she conceived the desperate plan of putting her sister out of the way in order that the field might be cleared for her to exercise her influence, with the aid of her friends, over Mr. Freeman, to induce him to appoint her as the person to receive the benefits which might result from his membership in a quasi insurance company, — or, rather, a social organization, — one of the features of which was the payment of a certain sum of money upon his death. You see how far-fetched such a motive would be. The mere statement of it is most ridiculous as a motive for committing murder. You would say, at least we must have evidence to satisfy us, if we are asked to believe such a horrid thing as that she did kill her sister from that motive, that she was going to get the money; but the government say, "Oh, no; she did that intending afterwards to go to work to bring about a state of things by which she might hope to get the money." Well, I cannot think that that, as a motive, will trouble you any, but it has served a purpose. It has thrown, to a certain extent, a shadow over the case, by raising some suspicion in your minds in regard to the prisoner and her conduct. It has served a certain purpose. But what is the fact about it? What were the straitened circumstances that would lead her, not to commit murder for a

motive certain, but a murder for a motive in anticipation, a motive which involved only a possibility or a probability? They say that she was in desperate straits. This is shown by the fact, as they say, that she was owing money, — not a great deal, but she was owing something, and she was owing it to some personal-property brokers; and it was promised you in the opening that evidence would be submitted to you that she was under great inducement to do something desperate, because if she did not she would be likely to be arrested. That promise has not been performed, and there has been no evidence of that sort. There is not the slightest evidence in this case that before the death of Prince Arthur Freeman the idea of arrest or of serious trouble ever suggested itself to her; and every single witness, I believe, without exception, says that she was not pressed. You remember Desmond says his loan was made in 1883, and that after his discovery of some deceit that she had practised upon him, when he thought he had some cause of complaint against her, which was within a week or two after the loan, he did not press her any further. Let me briefly refer to that list of witnesses. The first was the case of Roberts & Co. Certainly there was no pressure there whatever, because it does not appear that she was ever even dunned for the money; she came in and paid it in October. Then there was the case of Tobin, and he says that he did not press her. And then there was Desmond; he did not press her, and nobody pressed her at all; there was no pressure upon her. She had not got into any extremity about it. Now, when a person is pressed to the extent that he is driven to desperation, you may expect that he will do something desperate; but I do not think it would be reasonable to believe that a woman is going to kill her sister in order to get a chance to kill her brother-in-law in order to get a chance to get two thousand dollars, as a choice of evils, unless the point of desperation had arrived. The point of desperation had not arrived with Mrs. Robinson, because all these personal-property brokers do not submit to you any evidence of even any pressure for payment. That reduces it, then, to this, that the desperate strait was the mere fact that she owed some three hundred and fifty dollars in the shape of incumbrances upon her furniture. It does not appear but that by the sale of the furniture, or by the sale of some other property which she might have had, or that by the assistance of friends, she could not have easily escaped that inference of a case of desperate necessity. I am inclined to think, from what the ministers thought of her, and what her associates generally thought of her, and from the reputation that she bore in the community and among those who knew her, that if she had gone to any of them and informed them of her situation they would have helped her; and I think you will agree with me that

it does not appear in evidence that there was any trouble about it except a little matter of pride. It would seem the prisoner preferred, on the whole, rather to submit to the exaction of five per cent. a month from a personal-property broker than try to borrow money of her friends. If this was an indication of great pressure for money, it is a little remarkable that no evidence whatever is introduced to show that she was owing money that she could not pay by borrowing of her friends. There is no presumption here that she had lost the confidence of her friends, or that she had lost her credit with them. She was not in desperate straits at all.

Now, would the mere fact of the existence of a mortgage upon her household furniture be any reasonable motive for the crime of murder,—for the crime of a double murder? No, it is not reasonable. You will say that there must be something more than that. That is extremely slight. If you were called upon to find, upon the evidence, independent of the motive, that she killed her brother-in-law, you might say, "Well, there does not seem to have been any other motive for that except the fact that she was somewhat short of money;" but you would every one say in that case, "It is almost inconceivable that she should have committed the crime for that amount of money; we will not believe that." If you find as an independent fact, without regard to the motive, that she did kill her brother-in-law, then there might be something in it. You would have to take it, and you would say that that would be the most astonishing instance of inadequacy of motive for the commission of such a crime. But here the government ask you to find that that monstrously inadequate motive was a sufficient, ample and inducing cause for the murder of her sister, so as to make it reasonable to suppose that she did poison her brother-in-law, and that from the existence of that motive you ought to find that it is entirely probable that she would kill her brother-in-law.

I cannot spend any more time, gentlemen, upon that point of the motive. The idea is repellent; it is unnatural; it is unreasonable to suppose that that would be a sufficient motive, and therefore you will say, "We will require something else as a motive to assist us in determining this question of whether she did or not, as a matter of fact, poison her sister." You will do that. Certainly, gentlemen, you will not say, and you cannot say, "Why, yes, we can see that she would be very likely,—it is natural enough that she should kill her sister in order to relieve herself from this extremity." You cannot say that, and therefore that cannot help you upon the question of whether or not she did kill her brother-in-law.

Did she kill her brother-in-law? Did she commit this crime for which she is now on trial? The government say that she did, and

that in addition to this motive, which, if it was strong enough, might almost supply the place of evidence, the circumstances under which he died indicated that she did it. The first circumstance, they say, is that he died of arsenical poisoning; and undoubtedly the fact most strongly established in this case, so far as it has a legitimate bearing upon the issue, is the high probability that Prince Arthur Freeman died of arsenical poisoning. There is strong evidence of it, because symptoms consistent with arsenical poisoning occur with the presence of arsenic in the body after death, both of which circumstances in combination go to make a case of very strong probability. Does that exclude every reasonable theory to the contrary? Mind you, the symptoms in themselves are not significant enough to afford a sufficient basis for any such judgment; you must have the fatal arsenic besides; you must see that. They say arsenic was found in the body. How did it come there? Well, considering the symptoms, most likely it was received into the stomach before death in some manner. I will not stop, gentlemen, because I think I can improve the time more profitably in another way, to go at any length into the question of whether or not death might have been caused by arsenic in some other way than by its being received into the stomach at the time alleged, and whether it was actually the cause of death. I will leave that, gentlemen, for you to determine, and will not refer to it just now, but pass right on to see whether or not, if Prince Arthur Freeman was poisoned, the prisoner had any connection with it. Let us see how much stronger that is than the case we have considered in speaking of the relations between the two sisters, and see the utter improbability of the prisoner's guilt in this instance, because it would be so improbable, so unnatural, and so unreasonable.

We come, then, to the relations between Prince Arthur Freeman and the prisoner. What were they? The government witnesses all concur in saying that they were of the most cordial character, with the exception of one or two witnesses, who on every point seem disposed to stand out and to consider it to be their duty to refuse to recognize the existence of any feature which is consistent with the defendant's innocence. With the exception of Belle Clough and Dillon, the witness who spoke of the stove-pipe episode, you will remember, I believe, there is not a single witness who testifies to anything but the most cordial relations between them. When this case was put in the hands of officer Cavanagh, the deputy chief of police, you may assume it as a fact in this case that nothing was left undone which could be done in the way of investigation and of securing evidence, and I suppose that every person who had had anything to do with Prince Arthur Freeman or with the prisoner for months previous to his death was visited and all the information

possible was gathered. What is the result of it? With the scouring of the city and of the whole community, with the most careful canvass, presumably, of everybody who knew them, the result of it all is the testimony of one witness that before strangers she was very kind and affectionate towards her brother-in-law, and of another witness that he heard her once speak cross to him when they were putting up a stove-pipe. Now, were they on friendly, intimate, tender and affectionate terms with each other or not? If they were not, the government would have proved it. It is a remarkable feature of this case that witnesses who show no indisposition, to say the least, to make statements prejudicial to the prisoner, when they are inquired of as to her kindness, her devotedness, her gentleness, her generosity, with one accord shrink from saying anything that would tend to show anything to the contrary. Then I may well say, I think, that the relations between the two were most intimate and cordial.

The government say that she had an opportunity to commit this crime; but such opportunity, if that point is decisive, must have been such an opportunity as to exclude reasonably the opportunity of others; it must be an opportunity which was inconsistent with the reasonable opportunity of other people.

If she was the only one who had access to him, then the point of opportunity would be a powerful one; if different persons had equal opportunity, then the point becomes of slight account. The matter of opportunity, then, amounts to little. Did she have in her possession the means? All the government can say on this point, — one which has been a very important feature in every poisoning case, I will venture to say, that you ever heard of, — all that the government can say in this case is that they are unable to present any evidence to you upon it, but leave you to presume that she had the means to do it, because they say she did it, reasoning from effect to cause. Have you ever heard, Mr. Foreman and gentlemen, of a poisoning case in which the main feature of the evidence against the prisoner was not the difficulty of his accounting for the fatal instrument of death found in his possession? A very remarkable case this is, and its most remarkable feature is, if the defendant is found by you to be guilty, that she is found guilty without there being any evidence that she ever had in her possession the alleged means of death. Now, this matter is so decisive, poison is an agent of such description and character, that its possession at the time of a suspicious death is extremely significant. It is the first thing that a detective would look for; and you know as well as I do that within a week after Mrs. Robinson's arrest her photograph was in the hands of every apothecary within ten miles of Boston. I say that I know it, because the history of the Hersey

case, which every police officer must know, would have suggested it, if it would not have naturally suggested itself to the officers as the strongest and most important evidence to be procured upon the point. She never is found to have had in her possession any arsenic; she is never known to have talked about it. I don't suppose that any neighbor within a reasonable circuit of her house has failed to be interviewed upon the subject of some possible conversation with the prisoner within the last year or two for the purpose of bringing out the fact that there had been some talk about poisoning. Poisoning they say ran in her mind. They say that death ran in her mind, and anything that ran in her mind she was likely to talk about and let out, and she was likely to let it out loosely; but nevertheless, as it appears here, she always let it out to just the persons who would be likely to speak of it afterwards most loosely; to persons of prudence and discretion she does not seem to have said much about it. Now, it is a very significant fact in this case that the government did not find any person in existence who ever heard the prisoner make any reference to the subject of poisoning in any way. They say she is a shrewd woman, a very shrewd woman indeed; she would keep it secret; if she was reading up poisoning cases, if her mind was running on poisoning, she would be very careful not to say anything about it; but in the next breath they say, "Oh, when persons have guilty thoughts in their minds they always let themselves out, you know, and therefore she would tell Belle Clough that she wished somebody would dose Freeman, and that she had a vision that he was going," etc. The two things do not hold well together, gentlemen.

There are two very significant facts, then. She did not have in her possession at any time, so far as appears by the evidence, any arsenic, and it does not appear that she ever said anything about it; and another significant fact is that she never seems, so far as the evidence goes, to have known anything about it or its properties. She was not of an inquiring turn of mind. She must have got somewhere, at some time, some education in this business, because if Freeman was poisoned at all the work was not done by a tyro, it was done by a skilful hand; it was done in such a way as would be likely to baffle investigation; it was shrewdly done. The patient did not die within the ordinary time, it is reasonable to suppose from some features of the evidence; but at all events it was administered in such a way that it did not excite anybody's suspicions. Where does it appear that the prisoner was getting any education on that subject? There is no evidence on that point at all. So that, as far as the means is concerned, you see that there is not only reasonable doubt as to her having it in her possession upon the evidence, but there are very strong facts and circumstances from which you may infer that it

is a matter of extreme doubt whether she did know anything about poisons or not, much less have them in her possession.

The government say that her conduct was strange and unnatural in this, that she was unreasonably predicting the death of her brother-in-law. There is another very weak suggestion. It is weak for several reasons. In the first place, if she is the artful, the cunning, the shrewd and secretive woman that at one time she is claimed to be, it is inconsistent with that character which, as a whole, is ascribed to her by the government.

It is said that Freeman was taken sick on the morning of the 22d of June, 1885, which was Monday, and it is claimed that his sickness was manifested at a time which indicated that the cause of it must have been something that occurred before he left home in the morning; and when that appeared, the first thing that the government would do would be to introduce evidence to show that Mrs. Robinson had access to him that morning before he left. They do not do this. And let me comment upon the absence of evidence as well as upon the effect of the evidence produced by the government upon this point, for the two are equally powerful. You know that in the every-day affairs of life the wilful suppression of the truth is sometimes equivalent to the assertion of a falsehood, as, if you go to a man and charge him with a certain thing and he remains mute, you may, indeed, you must, construe it sometimes as an acknowledgment or an admission of the truth of the charge. It is enough to satisfy you of the fact. Now, Freeman on that morning of the twenty-second day of June left home, but the government, after careful investigation as to whether Mrs. Robinson saw him before he left home, have nothing to say on that point. That is good evidence for the prisoner, gentlemen. In other words, I submit to you that the government has done its best to make it appear that Mrs. Robinson saw him before he left home that morning, and admits it cannot do it. There is no evidence whatever that she saw him at the time it is claimed that the poison must have been given to him. It was a dose, they say, of poison which operated during the day and produced all the symptoms of arsenical poisoning. They say that while on his way to work in South Boston one F. J. Hayes met him and he told Hayes that he felt very sick at his stomach, that he had vomited, and that he felt very badly and strangely, and they say that those symptoms continued during the day, and by one witness they show that at three or four o'clock he left off his work, and by another witness, the Norwegian, of the same name, Johnson, that he left work at about six o'clock at night to go home. At all events he went home, and after he got home it appeared that he was suffering from the symptoms of arsenical poisoning. Well, the defendant is not connected

with it yet, and I had better stop here one moment and ask you if there is not a pretty strong circumstance which exculpates the prisoner and establishes in your mind some reason for pausing and hesitating and entertaining a reasonable doubt as to whether Mrs. Robinson gave him any poison that morning? Was it poison administered to him that morning that killed him? If he was killed by poison at all it is reasonable to suppose that he was killed by poison that was administered to him that morning, because the doctors all tell you that if a fatal dose of arsenic was administered that morning his death might result in two, three, four, five or six days, just as has been described; that from a fatal dose of arsenic administered on the morning of the 22d all the symptoms subsequently developed in his case would have naturally resulted; and I suppose the government will claim to you that he was that morning poisoned by Mrs. Robinson. He could not have been poisoned by her the night before, because he would have been sick long before morning and would not have gone to his work at all. Therefore it becomes of the utmost consequence that you find as a fact that Mrs. Robinson got up that morning and poisoned him before he started for his work. The district attorney, who has been indefatigable in the preparation of this case, and the government detectives saw well the force of that, and when Mrs. Robinson says that morning, as was her custom, she lay in bed until after Freeman had left the house and gone to his work, the government by its silence upon that point confirms her statement, and you ought to find it as a fact. You need not go beyond the question of raising a reasonable doubt in your minds about the matter, because it is a circumstance, a fact, from which you are to draw an inference which helps to make up your judgment on the main question in this case, and the court will instruct you that the evidence of that fact must be just as strong and unequivocal, just as significant, as any evidence in the whole case on the main question.

Now, did Mrs. Robinson see him before he left for his work that morning? I think you will say, gentlemen, that she did not, because if she did officer Cavanagh would have found it out; Chandler, who lived in the house, would have known something about it.

Mr. STEVENS. No, he didn't live there at the time.

Mr. GOODRICH. Well, somebody lived there. There were two other families in the house. There were people enough who knew something about her habits. Did not Belle Clough often stay there a week at a time? How is that, Mr. Foreman and gentlemen? She is not over-reluctant. The district attorney did not have to use any particular effort to extract from her anything that she knew that was

to the prejudice of the prisoner, by any means. Belle Clough knew something about whether or not Mrs. Robinson got up in the morning before Freeman went to his work, as a rule. Of course she knew, and I ask you to give to the prisoner upon that point the benefit of your judgment, that unless the government show to you that Mrs. Robinson was either up that morning, or ought to have been, in accordance with her usual custom, you will find that Mrs. Robinson did not give him any poison that morning any way. If she did not give him any poison that morning it is highly probable that she did not poison him at all. Highly probable, I say, because the government say that the highest probability, the most reasonable idea is, that he was dosed that morning before he left. Right upon that point you find her exculpated, and you do not have to rely upon her statement for it, either; you rely upon the utter inability of the government to show, under circumstances which you must reasonably infer would enable it to show the fact, if it existed, that on that morning she was up or ought to have been up. Upon this point you not only have the evidence of Mrs. Robinson, undoubtedly communicated to the government officers at a very early day, for there was a long period of time when she was subjected to their constant investigation and cross-examination before her final commitment, — but in a capital case the testimony of that boy, Charlie Robinson, is worth something, isn't it? Is not his testimony worth as much as that of a good many of the witnesses in this case? In a capital case, on the question of credibility, would he not be entitled to as much credit as Desmond and some of these other witnesses? His testimony is certainly worth something; I do not see why it is not worth a good deal. It would be easy to trap him if it were not so. In the first place, he knew about it. He had to get up early in the morning. He worked in a bookstore in Boston. Parties who work in bookstores in Boston and men who work over in the iron foundry in South Boston have to get up early in the morning. He says that he and Freeman always got up and ate breakfast together. He says that they did so that morning. He says that Mr. Freeman made the coffee and got the breakfast and that his mother was not up. She ought not to be up, because she had nothing to get up for. She had a daughter Lizzie, twenty-two or twenty-three years old, in the house, and Mrs. Robinson always said that Lizzie kept the house, as I understand it. These officers know whether she did or not, and Mrs. Robinson knew whether there was any one else to get up and get breakfast for Mr. Freeman besides herself or not. Charlie says that his mother was not up that morning. Then, if she was not up, the poison could not have been administered that morning, and that settles this case, gentlemen, because I do not see how you are going to get over

it. If the government choose to fix upon that as the time when he was poisoned, they may take any theory they choose. They cannot say that he was poisoned with arsenic that morning in some way for which Mrs. Robinson is not responsible; that he came home at night and was sick the next day and his symptoms somewhat improved, and then she helped out what somebody else had done. They cannot bring two independent, unconnected agencies into the thing. That would be an absurdity. They must stand somewhere, on some one thing. So I do not see how you can possibly get away from it. If she did not administer the poison to him on the morning of that Monday before he left for his work you cannot suspect her of afterwards giving him any poison, for his symptoms during that time were unmistakably those of arsenical poisoning, the doctors say, and the proof of it is just the same as in regard to his subsequent symptoms all through.

The government have not gone far yet in this matter of opportunity, or means, or motive, or probability arising from the circumstances. What is left concerning her conduct during the sickness? Dr. Nichols knows what her conduct was during the sickness and how devoted she was to her brother-in-law. He says that she appeared to be extremely anxious and solicitous in regard to Mr. Freeman, and attended to him with faithfulness, following, so far as he could observe, every direction of his, and doing all that possibly could be expected of her under those circumstances. You will have no doubt of the fact. I do not know that that is impeached by any witness. The government know whether during that whole sickness Mrs. Robinson indicated by her appearance, conduct, her suspicious looks or behavior, guilt or covetousness, or anything of that sort. No one is found to say anything of that sort, only that she said that he would not get well. And here again, to refer for a single moment to the case of Mrs. Freeman, it is significant that most of the witnesses to whom she said she thought her sister would not get well, said they thought so too. I say her conduct all through her brother-in-law's sickness was inconsistent with the government's theory. She did nothing which was indicative at all of her guilt. That is disposed of. Is there anything left about the circumstances of his sickness? We read in all the text books on homicide that one of the first things to look after is the conduct of the prisoner; her conduct in preventing access of friends to the person; her suspicious conduct in regard to the employment of physicians, in regard to medical help, in regard to affording an opportunity for an autopsy. Now, in this case, when Mr. Freeman came home, the first thing that Mrs. Robinson did was to send for a doctor to come immediately, and he came. She did not send out for a doctor who was ignorant; she did not send

for any quack ; she sent for a regular physician of high standing, who was not at home, and then she sent for another regular physician of high standing, and he came. The next day, or within a day or two, without any suggestion from the doctor, as he thinks, she got so anxious about her brother-in-law's welfare, that she suggested a consultation, which, upon the assumption of her guilt, was inviting detection. She had got a good doctor there who did not suspect there was any poison, and everything was going on smoothly ; but she appeared anxious that more doctors should be called in, the result of which would be a probability that the cause of his sickness would be detected. There was conduct on her part which was utterly inconsistent with guilt and only consistent with innocence. Dr. Driver is called in consultation, and after careful examination the two doctors make no suggestion about there being anything wrong, and then certainly the prisoner, if guilty, has accomplished her end. She has succeeded in poisoning her brother-in-law and she has got the testimony of two good, reputable physicians that after careful examination they find nothing suspicious about him ; and if she is ever molested, if suspicion is directed against her, she is certainly safe. Dr. Nichols says, — mind you, this does not come from her, — that after this consultation of physicians she suggested another consultation some time about Thursday. She wants Dr. Davison to come over. Why ? She said it was because he was Mr. Freeman's doctor. But he is a dangerous man to send for. She had just cheated Dr. Davison out of a patient, you know, by poisoning her. He is a man who has been through this. It won't do to have another of these cases come right under his observation. That is unnatural. But no, she insists upon having Dr. Davison come. It was against her interests as a poisoner to have him come, but it is highly in her favor as solicitous for the recovery of Freeman. She appeared, by the common admission, to be really anxious for his recovery, and she acted just exactly as anybody would who was in her state of mind. So she has Dr. Davison come, and the three of them examine Freeman, observe his symptoms, and the result is that they find no cause for suspecting any case of poisoning ; and Freeman dies, and neither of those doctors, especially Dr. Nichols, the attending physician, whose duty it might be to make any such suggestion, sees anything in the symptoms in the case which, in his judgment as a physician, even requires an autopsy. He finds that the symptoms were such as were entirely consistent with death from natural causes, and he so reports in his certificate, that he died of disease of the stomach. It was his opinion that he did, and it was the opinion of all the doctors that he did. It was a pretty good opinion, it seems to me, for the prisoner now to present to you for your consideration. After watch-

ing the case, having had the symptoms right before him, the attending physician certifies that the cause of his death was disease of the stomach, and that was so satisfactory to him and to the other physicians that there was no suggestion made of an autopsy. When any physician suspects that a person has been poisoned it is his duty at once to suggest an autopsy. It would be a foolish question to ask a doctor if that was the case, because we all know it is. Now, how does anything in that bear against the prisoner? There is nothing there, on the evidence, that really connects her with the cause of death. What, then, have we got? There is one thing left that it is claimed connects her with it, and that is this: "She had had visions." Had she had visions? She says she had had dreams, and that she had repeated the dreams; and I should think that a woman who has been under the influence of a man like Smith, who, over at the graveyard there at Chelsea, could make those tender and touching appeals that he did, would be likely to have dreams or visions or something of that sort. But, mind you, she says that there was somebody who pretended to be a Spiritualist who was around there at that time, who was all the time telling her about communications from the other world, "the unseen land." Belle Clough said Lizzie talked about it, that she said her father was coming again. Mrs. Robinson didn't say that, but Miss Clough. I shall not go into that at any length. It does not amount to anything. It has no significance whatever. It is the most common thing in the world to find in families, among women especially, this talk about dreams, about visions, or anything of that sort. And you do not get the whole story, you do not get the scene, you do not get the situation, you do not get the context. It is an isolated expression, pulled right out by itself. You will not pick out some particular words that she dropped at one time in that connection and regard them as significant of her guilt. You cannot do that, gentlemen; it is too far-fetched.

I must now proceed very rapidly, gentlemen, to the answer of the defendant to this charge of her connection with Freeman's death. In the first place, it is not probable that she would do it from the fact of her relations to Freeman. She had not the opportunity to do it, because she was in bed when it was claimed to be done, and all her conduct through the sickness was inconsistent with the idea of her guilt rather than lending any color to the charge. But there are some facts which it is proper for me to suggest to you which tend to her exculpation. It is not her duty to account for his death, nor yours either. She ought not to be called upon to do a thing which you are not called upon to do, that is, to say how he died. It is not for her to show that it is not necessary to assume that she is guilty, but you

cannot find her guilty unless you do find that it is necessary to assume that she is guilty.

It is proper enough, however, to suggest for your consideration some hypotheses which are entirely consistent with her innocence and which are not at all unnatural. Men do commit suicide. Well, you say you would hardly expect that; it would be unnatural. Not so unnatural as this alleged murder. Why, you would expect suicide three times over before you would expect such a crime as this. But there are some significant circumstances; it is not a bare suggestion. The Rev. Mr. Bates, — I suppose in a case of this sort, if he swears positively to a fact which tends to favor the prisoner, you will regard it as of importance enough to raise a reasonable doubt upon the matters which he may testify to, — the Rev. Mr. Bates describes Freeman the night before, Sunday night, as being quite low-spirited. He says he noticed it, so particularly that he spoke to him and asked him what was the matter with him, and he told him that he was not feeling well, he was sick, he had lost his courage, he was dispirited; and the good minister told him to cheer up, and comforted him as best he could. He was in that frame of mind which is not very inconsistent with the idea of suicide. Certainly Freeman was there that day, because Mr. Bates saw him. Charlie was undoubtedly there with him, because it is quite likely he would be, and he says he was. He says that coming home across West Boston Bridge Freeman said something which was quite consistent with the state of mind in which you would infer he was from the evidence of Mr. Bates. The idea of suicide occurred to him, and he said, "I have a good mind to jump overboard." Now comes a very significant circumstance. The very next morning, before he goes to work, the witness Dillon says that he saw there was something wrong about him down at the ash barrel. He calls it Tuesday morning, but he says that it was the morning that he went to his work. There are three significant circumstances testified to which give some countenance to the theory, if there was a necessity of bringing any circumstance before you, that this was a case of suicide. The theory in itself is one that is always to be considered. It is a reasonable theory, entirely in accordance with reason, because we find that it is in accord with experience. We know that there are a dozen suicides where there is one murder; and unless the circumstances are explained there is ten or a dozen times the probability of suicide to the probability of murder. So to say that he might have concluded to take his own life is an entirely reasonable theory, — it is an hypothesis which is entirely consistent with the innocence of the prisoner. It is a reasonable hypothesis, and that is enough. If you find it is a reasonable hypothesis, no matter how improbable it is, you ought to accept it, gentlemen, upon the issue of life; and the

law says you ought to accept it, and you will be instructed to that effect.

There is one other theory which I will now proceed to suggest to you. There was a dark and a baleful influence hanging over and overshadowing that family. There was a man almost a constant and daily inmate of that family, and, on his own statement, there two or three times a week on the average, living in Boston, and hanging around Mrs. Robinson's house. We find he was a doctor who had been experimenting upon the membranes of the human stomach, and who had specifics for operating upon and affecting the tissues of the human stomach, who had studied the anatomy of the human stomach and knew its structure and character. He was a dangerous doctor, because he was a quack. He was not an educated physician, — he did not pretend to be. In addition to that you find that his character is of that sort that would lead you at once to suspect him. He took the stand, and his first utterance was to inform you that he was a State Prison convict; that he believed that he had served six years in the Connecticut State Prison.

Mr. STEVENS. Five.

Mr. GOODRICH. He said five or six.

FIELD, J. He said from '49 to '54 or '55.

Mr. GOODRICH. Five or six. If '55, it would be six years. He had served five or six years in the State Prison. Well, that might not indicate that there was anything constitutionally criminal in his character; he might reform afterwards, possibly. At all events, there he is. His business afterwards was not of that character, however, which would inspire any confidence in him. He had practised a particularly dangerous form of treatment. He was a professional mesmerist, and mesmerism is even more dangerous than spiritualism, because mesmerism gives to the party who has the power to exercise the influence, the faculty of overcoming entirely the will of people, and of exercising a very peculiar, powerful and irresistible influence upon them. I do not believe he ever mesmerized the prisoner to the extent of leading her to kill Freeman, but taken in connection with his other influence, it is somewhat significant of the kind of influences that existed in that family, for which Mrs. Robinson was not responsible. You find when he comes to present himself upon the stand, that in addition to these natural warnings which would be suggested by his character and appearance, he had practised in a department which is rather significant, that of giving electrical baths, which he says should not be employed by any but a skilful electrician, especially in particular cases, otherwise disastrous consequences might result. He takes the stand and lets you see what sort of a man he is. And did you ever see a worse sort of man? Could you

pick out one more despicable than he appeared to be upon the stand? What character was there in that man? He has not even the mental power to distinguish between a decent and a ridiculous manner upon the stand. He claims to be a doctor. He is asked if he is not awaiting trial upon an indictment for murder which was brought against him. He says "No." He says "The State Constabulary have investigated the subject and they know I am innocent." "Well, you are under indictment; you have not been tried?" "No." "You have never been discharged?" "No." "What do you mean? That you are not to be tried?" "No, because they know I am innocent." Why, is the man a fool, or is he a knave, or is he both. It is an insult to your panel for a man to talk to you like that. I asked him a perfectly competent question: "Did you make love to Mrs. Robinson?" He regards it as a joke, and he puts on a sort of leer, and sneer. The idea is funny to him, perfectly absurd. "No." "Did you ever give her any rings?" "Well, she robbed me of some by force and arms."

Then at last he says that when he was reading his newspaper he thinks that she was working away to get a ring off his finger, and that she finally succeeded in getting it off. Do the government ask you to take any stock in testimony of that kind? The man is a Spiritualist. I have nothing to say against the science of spiritualism, if it be such; but in some of its forms it is a dangerous thing to have. I do not know what the form of spiritualism was to which Dr. Beers was especially devoted, but Smith says that it was the rankest sort, and we leave it there. The witness tells you that he was at Mrs. Robinson's house very frequently for three years, and you have his admission that he was there substantially two or three times a week. What was he there for? He says he went there professionally to treat her for a condition which she says to you, modestly, she has not yet suffered from. This was five years ago. Dr. Taylor could tell you whether it was true or not. I do not want to pursue that delicate subject any further. I did not care to call on witnesses to contradict Dr. Beers. Now, then, he was going there constantly for three years, and, as he says, giving her yellowish powders for a particular reason. What was the real reason? He was there, gentlemen, you know he was, for the purpose of ingratiating himself in the affections of Mrs. Robinson. He was there trying to get her. He wanted her, and he represented himself as a single man. Belle Clough,—and I suppose it is proper for us to learn from an adverse witness,—says that he told her that he loved Mrs. Robinson, that he wanted to marry her, and that she would not have him; that he had pursued and was pursuing her. If such a man as this Dr. Beers shows himself to be, was there, who was he after? If he was

there making love to Mrs. Robinson, wanting to marry her, hoping to secure her, tell me whether, if a couple of thousand dollars could be got into that family, the motive for him to do something about getting it in there would not be quite as strong as for the prisoner at the bar? Is it not a reasonable hypothesis? Why, it is so reasonable that upon a weighing of the probabilities I do not know why your verdict would not be in her favor. It is more likely, I think, that a man of the character of Dr. Beers should poison Freeman than that the prisoner at the bar should do it. He was a man whose character does not forbid such a supposition. His life had been spent, part of it, in the State Prison, and part of it in engaging in business which does not tend to the formation of a strong, honorable character. Mrs. Robinson's life had been passed, whatever weaknesses she might have been guilty of, in association with the pure and the good. She spent her time in the church and in the prayer meeting, and her household had all the outward forms of a Christian household. Whatever may be said of her it was a Christian family, certainly outside of herself. Those were the influences she was under. Two thousand dollars! Suppose that Beers thought he could marry her, or that he thought it would be very convenient to have a thousand dollars in his pocket; suppose he wanted to make some new experiment, or issue a new antidote, or wanted a little more capital, didn't he know if Mrs. Robinson happened to have a thousand dollars that he could borrow it? Might he not reasonably expect to be able to do that? Would not his motive for poisoning both the Freemans be just as great as the motive of the prisoner at the bar? He was a man who knew how to do it; he was a man who knew what poisons were. He was a man who could get poisons every day without difficulty or suspicion, and, Mr. Foreman and gentlemen, I want you to consider, if necessary, long and patiently, whether or not, when it comes to that, this Dr. Beers would not be more likely to poison Freeman under the influence of the motive alleged than the prisoner at the bar. The circumstances are all in her favor except — except what? Except the alleged motive of getting two thousand dollars. What a long chain of significant circumstances attesting her innocence we have to offset this one paltry inducement of the sum of two thousand dollars. On the other hand, in the case of Dr. Beers, what circumstances are there tending to show that he is a man who would shrink from the commission of a felony? He had been six years in the State prison for burglary. He was dabbling in poisons, experimenting on human stomachs, knew all about them; in love with Mrs. Robinson, wanted to marry her, and naturally enough, if he was going to get her, thought it would be convenient to have a little more money come along with her.

There is another motive which he might have had, and one I think which might have operated as a pretty powerful motive. If Dr. Beers really wanted to secure Mrs. Robinson, it must have filled him with apprehension and a strong feeling of jealousy if he found out that Mr. Smith was over in Garden Cemetery at various times with Mrs. Robinson and making those speeches which he said he did. I should think that Beers, when he found that out, would begin to be a little doubtful of his continued ascendancy over the mind of Mrs. Robinson. A man like Smith would have a peculiar influence over a woman like Mrs. Robinson; she could not stand that a great while. Smith was too much for Dr. Beers if he kept the thing up in that way. She is evidently a woman of a somewhat religious turn of mind. Whatever her conduct may have been, one thing is certainly true, that ever since she was a young woman she has been under religious influences, and naturally enough Smith would be a man who, if he really set about it, would keep her away from Dr. Beers; and Dr. Beers, if he knew what sort of language Smith was indulging in, and what sort of influence he was exercising over her, would naturally become jealous; and I say that when you have those two men contending for the mastery over the mind of Mrs. Robinson it is perfectly natural that one of them should have been jealous of the other; and sometimes jealousy constitutes a more powerful motive than money or anything else, because that is something which operates upon the mind more than the mere want of money does. Is not that hypothesis a pretty reasonable one? Let me restate it in just one word. Dr. Beers is over there nearly every day making love to Mrs. Robinson, wants her to marry him; he finds that Smith is over at the graveyard at Chelsea making pious appeals and speeches to her, — would he not naturally be jealous, and when that passion was aroused in the breast of such a man what might it not reasonably lead to? And here sits this woman, ground down by accusations, but not by circumstances, except by the light weight of a few paltry dollars. There is not another burden that rests upon her except some dreams that she had, which she could not help having after her connection with Dr. Beers and Smith, and after being subjected to their influences. There is nothing else but what sits lightly upon her. It is a very small thing which tempts her to the commission of a crime, on the theory of the government, which will clothe her with a garment of infamy all over. It is that little two thousand dollars. To all outward appearances she was a woman of good character, barring a little weakness of pride in borrowing money of personal-property brokers, a thing which is done by many an honest household. I do not know that a more honest class of people can be found anywhere among poor people than those who fall into the clutches of

these personal-property brokers. Many of them go there because they are honest, and it is nothing against them that they do go there. She was, as I say, a woman of good character, whose neighbors all speak well of her; and when she tenders her general reputation as an issue to the government, which she is not obliged to do, they do not accept it; they do not meet that issue; they leave her as a woman of good character, enjoying the confidence of everybody who is associated with her. There is an unnaturalness about the charge which is repellent to start with. In the circumstances of the sickness of Freeman there is nothing against her, everything in her favor; constant, devoted attention, exciting the commendation of everybody who saw her, and a great many people did see her. On the morning when Freeman was poisoned, if at all, she was in a situation where she could not have done it. Freeman was a man who would not be particularly unlikely in a case of extreme depression and doubt to take his own life. Corroborated as the prisoner is by the testimony of Dr. Nichols, which so surprised the government when they recalled him in order to contradict Mrs. Robinson on that point, to the effect that Freeman wanted to die as his last end approached, and going over the whole catalogue of facts and of circumstances from which you are asked to draw an inference of the prisoner's guilt in this case, and comparing this paltry and insignificant sum of money with the enormity of the offence charged, I say that now the weight of actually proved circumstances presses upon her but lightly.

Now, in the remaining time that I have to address you, gentlemen, I will first briefly dispose of some evidence which will be read to you, and which will be commented upon, I am sure, by the attorney-general, because it must be done. There is nothing else to do. The government must say something to you about the inconsistencies in the prisoner's statements. It would be a great deal better, in a capital case, to prove the charge than to undertake to show the inconsistency of statements on the stand under the circumstances in which this woman is placed; but I am glad we put her on the stand, or, rather, I am glad that we consented to her taking the stand, for this reason. You have seen and heard her. There is no Dr. Beers about her appearance. She appeared like a lady upon the stand, so far as appearance goes, and Dr. Beers appeared like a boor and a fool, and like a bad man, and we know that he lied badly. You do not know she did, and you have no right to say she did; and I venture to say that no criticism will be made of her testimony except in one particular. She is recalled, after being dismissed, and is asked if at the last trial she did not make just exactly a certain statement. She said "No," and she repeated that; and the question was repeated in words — "No, no." She undoubtedly meant by it, "That is not

what I said ; I did not tell Smith that I had visions. What I said was, that those things had come to me through Beers ; that Beers had told me about these visions ; I repeated them to others, I repeated them to different persons." But leave it just where she does. She says she did not tell Smith so. They say that she did say at the last trial that she told Smith so. Suppose she did ; has this been broken down as to her testimony ? Was she over-swift in statement ? Was she over-sure in regard to dates ? Did she not appear as well as any witness for the government ? Will you not make a little allowance for her peculiar and unfortunate position ? Belle Clough talked about having allowances made for her on account of the confusion of mind necessarily incident to a trial of this sort. The attorney-general will argue to you, I suppose, that you are not to make any allowances for the prisoner at the bar of that sort, but you must take any contradiction of her which he can bring about as being indicative of her guilt, as having a fair bearing upon that question. Well, I do not think that the accusation against her derived any added force from the ordeal of cross-examination to which she was subjected.

Now, in regard to the recovery of the insurance. When persons commit awful crimes they want to be sure of what they are going to gain by their commission. How did Mrs. Robinson know that the insurance policy, or certificate, would enure to her benefit ? Freeman had promised that he would do it [it is claimed], but whether it had been done or not she did not know ; but after Freeman became very sick, and it seemed as though he might die, then it is said she wanted to know. But her mind was so entirely at ease upon the point of that certificate that it would seem it never occurred to her to go and see if it was all right on the books and that the assessments had all been paid up, so that under the east-iron rule of the Order, which was read to you, providing that if an assessment was not paid when it became due the benefits should be forfeited, — she would be safe. She did not go to see that she had not lost her rights under this rule. She did not pay any attention to that at all. She had concluded to kill him, on the theory of the government, and then, after she had administered a fatal dose of arsenic, after she had killed him, she deliberately proceeded to find out whether she had got any insurance policy or not. That is the effect of the government's testimony. There is one woman, I believe, who says that whenever she was at Mrs. Robinson's house after Freeman came to live with her, this matter of making over the insurance to her was always being talked about. Belle Clough says that. You know it was not so ; and she is the only person, I think, — I may be mistaken, but I do not now recall any other witness who testifies to any

conversation about the making over of the insurance policy after Freeman came to her house. Was she swift about it? The defendant says that she did not know, that she did not ask him to make it over to her. He came there the 1st of March, and on the 13th of May we find the secretary of the Order suggesting to Freeman that he had better have it done, and you heard from him Freeman's reply, that he had not thought of it before. It is a little damaging to O'Hara, because he said he suggested to Freeman the idea of having it made over, and that Freeman said that he had never thought of it before. He is afterwards recalled and says he won't be sure, but he rather thinks there was not anything said about it one way or another. He is recalled and wants to qualify his statement that he had once made which tended to favor the prisoner. It was discovered that his sworn testimony as it stood when he left the stand favored the prisoner. He refreshes his recollection in some way and comes back and says he will not state it so strongly, and puts it differently.

There is a very significant piece of testimony that comes from the other side, that on the thirtieth day of May or thereabouts Freeman's mind had not been called to the subject of the transfer of his insurance at all. Well, when it was transferred it would be good for nothing until it was recorded on the books of the society. It was so understood, at all events, because two or three of the government witnesses from the insurance company say that there was a delay about it for some reason, that there was a hitch in it, and it hung along for some time. Well, what was the prisoner going to murder Freeman for until after they got through with that hitch? Why didn't she wait? Wasn't she a little premature about it, and would she be likely to be premature about it? The certificate had not come back; she had nothing; she had not a scrap of paper in her possession; she did not know whether Freeman had assigned it or not, except that he had said that he would do it and that it should be done. But yet it is claimed that as soon as she finds that she has destroyed Freeman, she becomes anxious to know if she is going to get her money and if the assessments are paid up. She knows, presumably, what ought to be done, but she concluded that she would not wait and see whether he had done what he said he would do or not, but she would kill him first and find out afterwards; kill him first and then see whether she had got any money afterwards. It is somewhat difficult, gentlemen, to argue with patience this question of her killing her brother-in-law in order to get two thousand dollars in that way, when her conduct was such as to show that she had no reasonable assurance of getting it. How narrow the escape was, any way. After he was taken sick she did not send for an officer of the company, it was Freeman's own sugges-

tion. They undertook to show that she sent for Mrs. Stanwood, the collector of the Colony, but it appeared that Mr. Freeman suggested it and Belle Clough went down and left a message which brought her.

I have not the time to do what I should like to do, and that is, group some of the witnesses together and show how little reliance you can place upon their swift, extravagant, unreasonable testimony. You will do that, but I can only take the testimony of one witness as a sample. It is the testimony of Belle Clough, who has given the most damaging evidence against the prisoner. She says that on the way over to the funeral, riding in the same carriage with Mrs. Robinson and her daughter Lizzie, Mrs. Robinson talked about having this insurance transferred to her, and she says that after that Mrs. Robinson was always talking about it whenever she went to the house; and she makes the statement—which you do not believe, nobody else in the world heard it—that Mrs. Robinson said she wished somebody would dose Freeman. But when a witness is called back to the stand to say that she has made a serious and important mistake, and it appears that it is only one of half a dozen serious mistakes that she made, you will not place a great deal of reliance upon her testimony, and you will not find, I think, that Mrs. Robinson ever said any such thing on the uncorroborated testimony of Belle Clough. I say her statements are utterly worthless. I do not say they are worthless because her character is worthless; I do not know but her intentions are the very best in the world; but I am afraid that she has been in officer Cavanagh's hands, because she fixed dates and everything else so very carefully, and I think they have been written down somewhere and read over to her, and she thinks they are all right. In her testimony in chief she said that she went down to see Mrs. Stanwood and had a talk with her about the assessments, etc. On cross-examination I called her attention to it and asked her particularly if Mrs. Stanwood was there on the night she went down. Yes, she was there; it was Friday night. Did she find her at home? Yes, she did. What talk did she have? She told what talk she had, and among other things in the conversation was this: "She said that if anything happened it would be all right." That is pretty strong—"if anything happened everything would be all right, she would attend to it." Well, it was a pretty important matter and I thought I would bring her round to it again; so at the close of my cross-examination I asked her again about that, and for the second time she repeated it; fixed the time and place, insisted it was before Freeman's death, and said that Mrs. Stanwood said that if anything happened it would be all right. Now that would have gone in before you, gentlemen, as an important piece of testimony if it had

not been for a certain circumstance. It was a mere accident that she took that back. The accident was this. You heard me ask Mrs. Stanwood if she had not given a deposition in this case, at which the prisoner's counsel was present, in anticipation of her leaving the State before this trial. She said she had. Of course we know what her deposition was, and in it she happened to say that she had been sent for by Mrs. Robinson; that Belle Clough, or some one, as she understood it, had left word for her to come up. Well, I saw at once, of course, that there was a little discrepancy, and I was enabled, by reason of the circumstance that Flora Stanwood's deposition was taken, to interrogate Miss Clough upon that point. Miss Clough is brought back to say that she made a mistake; that she had that conversation after Freeman's death. She only corrected the mistake in the date; she had said it was the night before he died, and on her recall she said it was the week after he died. I asked her, "The week after Mr. Freeman's death Mrs. Stanwood told you if anything happened it would be all right, did she?" "Yes, sir." That part of it needed to be taken back; it was not sufficient to take back only the general conversation and the time. But that would not do. She remembered the language; she swore to it. She swore that Mrs. Stanwood told her before Freeman's death that if anything happened everything would be all right. She said she rode in a carriage over to a funeral,—I suppose that meant from Cambridge,—she said she rode in a carriage over to a funeral with Mrs. Robinson. Mrs. Robinson says that she did not go home, but when she went over to her sister's she stayed there until her sister was buried, and there is no doubt of it; you do not have any doubt of it. Belle Clough did not ride to the funeral with Mrs. Robinson. On cross-examination I asked her particularly, "Did you ever go to a funeral in a carriage?" "Yes, we went to the grave." "Then this was on the way to the grave, was it?" "Yes, this was on the way to the grave. I rode in a carriage with them there." She is contradicted on that point completely. Then she is put on again to say that at least she rode from the cemetery back to the house again, and in the course of this conversation she says that Lizzie promised to induce Freeman to come and live with her, and that she talked about this matter of insurance. There is a contradiction on that question about riding in the carriage. There are various other contradictions in her testimony. She stands self-contradicted in many particulars, and her testimony is utterly at variance with the testimony of any witness upon whose reliability you can in any wise depend.

There are one or two other circumstances to which I will briefly call your attention, without enlarging upon them. Mr. Wiley, the secretary of the Order, to whom Miss Clough and Lizzie were sent

on Monday night, is called as a witness. He is not asked what Lizzie's errand was; whether it was to see if the assessments were paid or whether the insurance papers had been transferred all right. They went over and Mrs. Robinson sent them over for a purpose. If it was for the purpose of seeing if that policy had been transferred all right I should think that Wiley would have been asked that question on the stand, whether that was a message delivered. Then there is the testimony of Johnson, the Norwegian, who says that on the day of the alleged sickness of Freeman he did not notice that anything was the matter with him and he worked until six o'clock that day; but that he complained several days before that of pain in the stomach. I refer to that as bearing upon the question of his condition. If he had been really in poor health, and had been complaining all along of his condition, he might well have got into a depressed condition. The testimony of Maggie Smith is to exactly the same effect. She met him as he was going home, she thinks between half past four and five, and he told her that he had been ill for some time.

I will not call your attention to any more of the particulars of this evidence because I know, Mr. Foreman and gentlemen, that anything I have omitted your own recollection will supply, if it is of any account. I am, of course, naturally solicitous not to neglect any possible duty, and I am desirous of presenting to you fully and fairly any considerations that occur to me as likely to be of any service to you in your investigation in this matter; but I feel that I have at length arrived at a point where I ought to leave the evidence in this case, further than I have gone over it, to yourselves in the jury-room. It now remains for me, gentlemen, simply in a few words to close as I began by referring you to the nature of the duty which you are now to discharge, to your responsibility and to the attitude of mind which you are bound in conscience to assume in the determination of this matter. You are now to lay aside, as I said in the beginning, all impressions except those you have received from the legitimate evidence submitted to you for your consideration in this case; as I said before, a difficult task, but one which you will summon all your powers to enable you to accomplish. You will not be disturbed in your minds by the apprehension of the consequences of any possible failure to convict a prisoner who might possibly be guilty. You will only be disturbed by the apprehension that you shall fail to decide this case upon the rules of evidence and law as they are submitted to you by the court for your guidance. You will make the strictest application of the facts to the law which will be given you by the court, and will then decide whether or not you are prepared to say that at last, after a careful, honest and faithful investigation of all

the evidence in this case, you know that the prisoner at the bar, as well as you can know anything upon human evidence, is guilty. By which I do not mean, gentlemen, that you are to know it because you see it, but because your minds are at rest, and are no longer exercised by any doubts about the matter; you are able to say that you have come to a full, clear, honest conviction, derived wholly from the force which you are bound to give to the evidence in this case, that she is guilty. But if, gentlemen, you shall find that upon any reasonable hypothesis the prisoner may be innocent, you will give to her the protection of that principle of law by which in such case you are bound, by which you must be governed, — not a fanciful, not a conjectural theory or hypothesis, but a fair and reasonable supposition and theory, which may be consistent with all the evidence in this case; and although you may even go so far as to think it is highly probable, on the whole, that the prisoner has committed this offence, unless you can say, “We cannot admit that any theory which can be set up is consistent with the evidence in this case and at the same time consistent with the prisoner’s innocence,” you cannot convict her. The issue is too mighty and too terrible for you to make any mistake. Your consciences will not allow you to make any mistake. The Commonwealth has taken the utmost pains that you shall not make a mistake. As I have said, it has presented you with peculiar, unusual and exceptional facilities for coming to a wise conclusion. Under the beneficent provisions of our statutes even a double representation of the court presides in order that there may be no mistake, so far as can be reasonably provided against, about the law in this case, and you yourselves will see with equal care that your verdict shall not be a mistake so far as the prisoner at the bar is concerned. You will remember that all presumptions are in her favor, were in the beginning and are now; that she stands now innocent unless she be proved to be guilty; that the facts which are significant of her innocence must be disproved or controlled and overcome by stronger evidence before you can find that she is guilty of the offence. I believe, gentlemen, that acting in this way, with that attitude of mind, with that purpose of heart, with that devotion to the idea of your duty, the conclusion to which you will arrive in the end will be one which will be in accordance with your consciences and with your duty, and that it will be a verdict which will at last deliver the prisoner at the bar, after her long confinement, from this terrible charge of an unnatural and monstrous crime.

CLOSING ARGUMENT FOR THE COMMONWEALTH.

BY HON. A. J. WATERMAN, ATTORNEY-GENERAL.

If the Court please, — Mr. Foreman and Gentlemen: — I feel keenly the responsibility of attempting to follow one who has so ably presented his part of the case, and I feel the importance of the position which I hold. Not that I would try to magnify to you anything, but I feel as though I needed every power I have and every effort I can make to present to you this case as it ought to be presented. You will make all allowances for any shortcomings of mine, and you will, of course, take into consideration that this has been a long trial; and if I should fail to call your attention to some material facts in the case you will remember them yourselves, for upon you is the responsibility of judging upon the facts.

It is my responsibility and my duty to present to you the case as it appears for the Commonwealth fairly, without deceit, or any intention to deceive, without any prejudice, so far as in the human mind it can be avoided, and to give you, for the purpose of aiding you in coming to a fair, an honest and truthful conclusion, as thorough a review of the evidence in the case as I can.

This indictment is brought against this defendant for the crime of murder, called "homicide," committed, as is averred in the indictment, by using poison, to wit, arsenic, — administered to Prince Arthur Freeman on or about the twenty-second day of June, 1885. Murder, as has been stated to you by the district attorney, is homicide in the first degree, and as he stated it so I will read it to you: "Murder in the first degree is the deliberate, premeditated killing of a person with malice aforethought, or in the commission of or attempt to commit a crime punishable with death or imprisonment for life, or committed with extreme atrocity or cruelty." If a murder does not come within one of the branches of the definition as I have read it, it is murder in the second degree.

The indictment, gentlemen, charges the defendant with murder. It is not necessary to aver in the indictment that it is murder in the first degree or in the second degree, but it is enough to aver that it is

murder. The statute creating the difference between the two offences of murder — murder in the first and murder in the second degree — did not change in any way the form of pleading. The indictment remains the same as under the old law. Under an indictment for murder it is for the jury to find, as they may be warranted by the evidence, whether it be murder in the first or in the second degree; and under an indictment for murder, if the facts in the case would sustain such a verdict, one might be rendered for manslaughter, or even for assault and battery, or for assault without battery. An indictment for murder covers offences ranging from a simple assault, — the main element of which is a threat, something which could be carried out, — to the killing of a person, which would come within the definition that I have read to you of murder in the first degree. So you see this indictment contains all of those elements. In this case, if the government have proved their case, they claim that this defendant has committed murder in the first degree; that it was done with deliberation and with malice aforethought, and in such manner as to bring it within the definition of that crime. You may find, if you find a verdict at all, that it is murder in the second degree. I speak of this because it is almost always said, as it has been said in this case by the counsel for the defendant, that the issue here is wholly as to whether this prisoner shall live or die. It does not necessarily follow that your verdict will consign this defendant to the gallows. With that you have nothing to do; it ought not to be taken into consideration to influence you in the result of your deliberations.

The averment of time in an indictment is not material. That is, it is no matter whether it is on the first day of June, 1885, the 21st, the 22d, or the 27th. The time must be alleged, and must be proved substantially as alleged. Therefore, if the evidence shows that Prince Arthur Freeman died on the 22d of June, — I do not claim that there is any evidence of that, but if there was, — and you should be satisfied that the evidence warranted you in finding a verdict of guilty, the defendant could be convicted as well upon that proof, as upon proof that he died on the twenty-seventh day of June or any other of those days. I speak of this because it has been said in the course of the argument that everything must be proved precisely as alleged. The court in the charge to you will instruct you in these matters, and it is really unnecessary for me to say anything about them.

In the first place, gentlemen, let us get at the names of the parties who were connected with this crime. I do not know but you may think it unnecessary for me to rehearse this to you, but I am going to assume that you will be glad to get, as far as you can, all the facts,

and learn all you can about them. It may be that hearing so much evidence, covering so much time, you will get confused as to the names of the parties, for it is sometimes rather difficult to get them all so that they can be readily stated.

The names of the persons figuring in this case are as follows : Sarah Jane Robinson is the defendant. Her sister was Mrs. Annie Freeman ; they call her " Ann." Her husband was Prince Arthur Freeman. The boy's name was Thomas Arthur, but sometimes in the course of the case when talking about him they speak of " Arthur." The boy's name was Thomas Arthur Freeman, the son of Annie Freeman and Prince Arthur Freeman. A sister of Mr. Freeman married a Melvin. The children of this defendant were Lizzie, Willie and Charlie. Charlie has been here, and they have all been spoken of in this case. Her husband was Moses Robinson, who died in 1882. Annie Freeman died on the twenty-sixth or twenty-seventh day of February, 1885, leaving two children, Thomas Arthur and a baby, " Little Lizzie," they called her. The baby lived about a month afterwards and died. Thomas Arthur lived until July, 1886.

On May 13, 1885, an assignment of an insurance was written upon a policy, or paper, or whatever you may call it. That insurance was issued and became effective in 1882, and was upon the life of Prince Arthur Freeman, originally for the benefit of his wife, Annie Freeman, and if he had died before her it would have enured to her benefit. That assignment, although dated on May 13, 1885, continued along from the lower lodge, as I call it, of the Governor Dudley Colony, — that is, from one of the divisions or sub-divisions of this Order, — until about the twenty-fifth or twenty-seventh day of May, when a notice was given to the supreme secretary, or somebody in high authority, of its existence and it was attended to. Then it lay along until between the twenty-first and twenty-third day of June, or about that date ; I think Mr. Shepard said not beyond the 23d, but possibly it may have been the 24th — the twenty-third or twenty-fourth day of June, 1885. Prince Arthur Freeman died on the twenty-seventh day of June, 1885, at about fifteen minutes before twelve o'clock at night. That seems to be the best evidence in the case. That is not very material, but I conclude that that is established by the evidence. Some one has said that it was a little after twelve o'clock at night and that it was on the 28th that he died. It was on Saturday night that he died, about a quarter before twelve o'clock, on the twenty-seventh day of June, 1885. These are the facts as they lie in my mind and as you will find by the evidence, and there is no dispute as to them.

Mrs. Freeman died in February. She left two children, Thomas Arthur and little Lizzie, the baby. Before she died those two chil-

dren had been taken by Lizzie Robinson, the daughter of this defendant, who was then alive, to the defendant's house. Mrs. Freeman died in February, as I say, the 25th or 27th, 1885. When she died her husband, Prince Arthur Freeman, was living at that house. He was not at the house when she died, you will remember. She died some time in the day; some of the witnesses put it at one o'clock and some nearer five. Prince Arthur was not there; he had been sent off somewhere. There was an insurance on his life which had existed since 1882. I speak of these things again because I want to have you remember them. That insurance existed and was in force when she died; and it was in force, as I say from the evidence here, and there is nothing to dispute it or contradict it, from that day until it was paid. This defendant knew of its existence, as she says, back to the time of its origin in 1882, and she believed, — she does not say this, but it appears, I say, from the evidence, — she believed it was in force, and she believed that all that was necessary to make it available for her benefit was to have it assigned in the way that the rules of the Order required; and she believed, down to the time when Prince Arthur attempted to go to work on that Monday morning, the twenty-second day of June, 1885, that it had been assigned. She had heard that it had been assigned, but she had also heard that there was some difficulty about it, and she, having had difficulty in regard to the insurance upon her husband's life prior to that, and the suit, as the evidence is here, having gone against her in that case, was anxious in this case that this should be made so that there would be no question about it.

MR. CRANE. That suit had not been disposed of.

MR. WATERMAN. I did not say it had. She said that her lawyer told her that the suit had gone against her on the facts, but that he had got a question of law that would save the case. That is what I mean. She said that the suit had not been determined ultimately and ended. A final judgment had not been rendered.

FIELD, J. There was the evidence of one witness to that effect. I do not remember that it was the defendant.

MR. WATERMAN. Very well. I may be mistaken about that. It was testified to by some witness. I thought she said it or corroborated it, stating or assuming it to be so. That was the fact. Now, she knew this. She knew, according to the evidence, that something had been done in the case. I am not going to repeat the evidence in regard to that. She knew that something had been done toward the assignment of the policy to her, and she understood that it was dated some time before that; that there had been delay about it, and she was anxious in regard to it and wanted to have it perfected, and the nearer it came to the death of Prince

Arthur Freeman the more anxious she grew. You will remember the evidence that Lizzie and some one else were sent to see about it; and you will remember the evidence of Mr. Wiley, the under-secretary, in regard to it, and the letters that are said to have passed in regard to it, and that she was anxious to have that fixed so that if anything happened it would come to her. Now, gentlemen, it would seem that there is no doubt about the state of her mind in regard to that insurance. The thoughts that were uppermost in her mind were in regard to matters in connection with the insurance; and she was anxious to have that insurance made so that there would be no question about it, so that it would come to her when Prince Arthur Freeman died. That is, she was anxious to take the place of her sister as beneficiary under those papers, and she wanted to be put there early enough so that if Prince Arthur should die she would be certain to get this money. That was her state of mind; that was the thing that she was thinking of; that was what she was talking about at this time and clear down to the twenty-first day of June, 1885. Prince Arthur died on the 27th, at night some time, and we find her anxious; and if there is any truth in the statements of witnesses, of witnesses who are wholly disinterested, she was assured two days before his death, she says, or some days before, when Flora Stanwood was there, that that insurance had been made so that there was no question about it.

It was about the fifth day of February, 1885, that Mrs. Annie Freeman was taken sick. I take it that was the date because the doctor was called there, I think, about the 5th. I think that was his testimony. Whether he meant that or meant a few days later is no particular matter. She was taken sick about that time, and at the time when she was taken sick this defendant was engaged in work at R. H. White & Co's. Mrs. Annie Freeman continued to be sick; she had a physician. She was sick with pneumonia, if we can rely upon anything that is stated here by the physicians who were present at her sickness, or by the other witnesses who were there and saw her while she was sick, — I believe Mr. Crawford was one, — and she had pretty much recovered from that at one time. During this time her sister, this defendant, was called there to see her, and the nurse whom they had employed before this defendant went there was discharged, and afterwards the Rev. Mr. Crawford sent Miss Baker there. I think he said that she wanted some help, and Miss Baker rendered some help; lent a hand, and stayed there some nights and days perhaps. The defendant says that she herself was there about ten days, but she don't know and she cannot tell; but the others make it that she was there about a week before her sister died. When she went there the evidence is that Mrs. Freeman had almost

recovered from the pneumonia, was convalescent, and was in a fair way to get well, and it was believed by the physician and by all that she would recover. But after this defendant went there she began to have these times of vomiting, burning sensations at the stomach, and other symptoms of arsenical poisoning. I do not forget in rehearsing this the statement of one of the witnesses who was there before that, a nurse, that she had before this time had pains and had vomited, I believe; and there was a question in my mind at the time, but it was afterwards corrected by that witness, who said that she had made a mistake about it, or she presumed, or assumed, or understood that the condition of the woman while she was there, before the defendant went there, was similar, but it was afterwards corrected.

But she is the one that stated that. The physician stated it differently, and all the others confirm the statement of the physician. There is no doubt about that, that Mrs. Freeman had become better, so that there was a fair prospect of recovery, and that they expected it. All at once this change came over her, and she continued to grow worse until she died; and her sister, this defendant, stayed there from the time she went there until she died.

Now, this woman, who testified to this, spoke of her symptoms. Inflammation, whether caused by arsenic or anything else,—if the same inflammation takes place, if the same result is attained with one kind of medicine as with another, the consequences will be the same; that is, the symptoms will be substantially the same. Sometimes inflammation is more acute than it is at others, but it is inflammation, whether it be caused by arsenic or by something else. If it extends over the same surface and heats to the same extent, it will give substantially the same result; and I am borne out in that by the statement of Dr. Davison and Dr. Nichols, and all the other doctors. It cannot be told to a certainty, beyond all question, when a person is troubled with inflammation or burning in the stomach that that results from arsenic. It is inflammation, and it creates the same sensation, substantially, whether it be from one thing or from another. If it creates excitement, it creates the abnormal condition of the organs in that direction; so that Mrs. Freeman may have had symptoms—what this witness called symptoms—the same as were manifested afterwards, and yet be perfectly consistent with the disease that she had, that is to say, pneumonia.

I do not place much consequence upon what she stated about that. It was in 1885,—two years ago, almost,—and she is called upon the stand to make her statement. She states her recollection without any particular interest to remember every identical thing and every identical fact which took place there, and probably she has stated

what took place after Mrs. Robinson went there. It is for you to say of how much consequence it is, how much worth it is in the case, and whether it influences your minds to believe — against the testimony of the physicians and the other parties who went there — that this woman was sick in the same way before the defendant went there to take care of her as she was afterwards.

Now, gentlemen, after Mrs. Freeman died, and after she had been buried a long time, and her body had been exhumed, and an analysis had been made of the organs, there were found in her system arsenic and mercury, and in unnatural quantities, — in such quantities that they must have been administered in some form or other; for you do not believe that these doctors had been poisoning her before this defendant went there to see her, do you? So that if she had any inflammation or symptoms of arsenic or arsenical poisoning, it must have been after the time when they said she was about to recover.

My brother Goodrich says she did not die from arsenical poisoning, because, as he says, Professor Hills said that he could not testify to the fact that she was killed by arsenic administered before death, that it might have been administered after she was dead; because the undertaker or his agent testified that he injected some embalming fluid, and that he, Professor Hills, could not tell whether it was in the embalming fluid or whether the arsenic had been administered to her while she was living, and it was no use to go on with the analysis. He was satisfied, and came to the conclusion that if what he found in her body was administered to her when she was alive, she must have died from arsenical poison. Then, when he is told what the attending physicians say in regard to her symptoms before she died, he says those symptoms are consistent with a death by arsenic, and that is all he could say; and he could not say anything more truthfully.

He found mercury in her body, and it is well known that mercury is used in embalming fluid. But this is the important point of his analysis. He found the arsenic distributed more evenly throughout the system than the mercury. But how could that be? Why, if it were administered while she was living, it would be distributed more evenly about the system than if administered by injection after death, and he found the mercury in one lobe of the lung to a much larger extent than in any other part of the body; therefore I understood him to say that he inferred it was the mercury which was in the embalming fluid, and that the arsenic might have been administered at some other time.

It is not necessary, gentlemen, for you to find, in order to convict this defendant of murdering Prince Arthur Freeman, that she also murdered Ann Freeman, for if we could prove by direct evi-

dence that she murdered Ann Freeman, it could not be used to show that she murdered Prince Arthur. The fact of murdering this woman could not be used as a fact in evidence to show that she murdered Prince Arthur Freeman : but the object of using this evidence is to show her intent in killing the person of whose murder she is accused in this indictment, that is, Prince Arthur Freeman.

He died on the 27th of June, 1885, three, nearly four months after the death of Ann Freeman. The government claims that she laid this plan at the time she went there to take care of her sister, and that her motive was, or one motive was, as the Commonwealth claims, to get that two thousand dollars herself, and use it to relieve her in her straitened circumstances. She was poor, Ann Freeman was poor, Prince Arthur Freeman was poor. I do not speak of this as being any disgrace to them, but as a fact which is in the case. They were in straitened circumstances ; they needed money ; they needed help, and many things that have come in here in evidence are explained on account of the poverty that existed in those families. For instance, why was the bottle of wine sent over to Ann Freeman by Dr. Beers ? Why, because she was sick unto death, without money enough in the house to pay for a prescription, and Mrs. Robinson's friend, her right hand man, was the one she applied to to get it. Was it strange that she got the bottle of wine, or that he sent it ? Who would not have done it, Dr. Beers or anybody else ? I will attend to him by and by and see what there is of him, State prison and all, anti-drink, anti-morphine, opium, belladonna and the ring ; no matter, he was a human being, and Mrs. Robinson applied to him, and he responded, and there was no harm in it. He sent the wine. They were poor, and they needed it. Even if they had been wealthy, and had thousands of dollars, it would have been a very respectable, decent thing for a man to do, under the circumstances.

Mrs. Robinson was attending her, and this insurance policy then existed, and Mrs. Robinson knew it. Now, we say that, at that time, she conceived the purpose of murdering her sister to put her out of the way of being the beneficiary in this insurance, because she could get it no other way. If her sister had lived she could not get a dollar of it, could not get it assigned to her, could not get the children, nor anything, and she conceived this scheme of putting Ann Freeman out of the way that she might have the insurance. She had got the children over to her house through Lizzie's influence, and through other influences she was at work upon Prince Arthur to get him there so as to get that insurance assigned to her, and when it was assigned, then to put him out of the way. This may not have been all the motive this woman had in her mind ; it may not have

been the entire reason for her acting in that way, but that was one object, and she was in that state of mind, she had lived so long with Dr. Beers, or with somebody else, — forty-seven years she had lived then, and she had come into a condition that was either insanity or which was next to it. She had become wrong, according to her own statement. And why they rely upon Dr. Beers here to defend her, I cannot say. We understand, gentlemen, human nature. We understand why Dr. Beers visited her. We understand her motive in going to his house. We understand, when she sent fifty times more or less for medicine from him, what that means. We understand when she says she did not know Dr. Beers was married, and knew he lived in Allston, fifteen minutes or ten minutes' ride from where she lived, or five minutes more or less, and lived there for years, and she kept his company, saying she did not know he was married when he had a wife and family and grandchildren, — when she says that, we know it is impossible to have been so. We know that she went to Appleton Street, and there was told by his daughter, when she inquired for Dr. Beers, that Mrs. Beers was there; she would know what that meant, Mr. Foreman and gentleman, just as well as you would if you went down there yourself. Yet she did not know he was married, and he told her he was a widower, and he told her he was a single man! She pretends that! That is not rational; it cannot be believed; it is untrue. The statement is not worthy of an instant's thought. She must have known it; and taking his testimony out of the case entirely in regard to that, she must have known, as other people know, that he was a married man; and she certainly had reason to put herself upon inquiry to see whether he was or whether he was not. She is much younger than he. She is now fifty years old, and he is seventy-five. There is a great difference in their ages, and she had control over him, more or less. It is no use trying to cover up anything about this. He would naturally try to protect himself, and he would try to put himself into a truthful position in regard to this, but you know he cannot, and I know he cannot, and we all know he cannot; but she cannot see it.

That is the way a criminal always does. I mean by a criminal a person who gets into a wrong state of mind, gets into an unnatural condition. What do they try to do? They try to make you believe their falsehood, and that their position is true, and it cannot be done; it never was done; it is impossible to do it. Well, what is the result of it, and how does it work? Why, here she was in this condition of mind; doing this thing with him, perhaps others, I do not know; living in the way she was, living falsely to the world, in a false position in every move she made from morning until night, and from night until morning, and attempting all the time to make the world

believe she was acting in truth. God never made two ways to go and have them come out at the same end, by having one false and the other true. A person who continues on in falsehood and in sin (and criminals are all in the same condition, and they are just as bad as insane people, only not to that degree) must be out of joint with truth and right. You ask me, how can a man commit crime? I do not know and you cannot tell; but they do commit crime, and what is the first thing they do? They attempt to cover it up, to conceal it. What is the result of that? It obliges them to cover another deceit, and that another, and another, and another; and as long as they go on in that way, without coming out and telling the truth about it, and acknowledging it, they will only be worse off from day to day; and in that way they continue on, as this woman has continued from the time she commenced until the time she took care of Prince Arthur Freeman; she had grown worse and worse, until her conscience had left her, and there was not a single truthful idea or thought remaining in her mind — scared to everything. Not that she believed it was right, but doing wrong, being on the wrong road, the faster she went the further she went from home, and the worse she became every moment of her life. Truth will not allow a person to deceive, to cover up; in order to put herself in a truthful position, to be right, she must turn and come back and stand on a truthful basis; and until she does that she must grow worse just as sure as the earth moves and the sun rises and sets. There is only one rule in regard to it. If there is an absolute fact in the world, it is that truth and falsehood cannot go together. Unless we get it settled in Andover, or somewhere else, we cannot have two ways to go; it is no use to battle with it, to contend with it, it is a fact. And all there is for a man to do with fair intellect, with a proper purpose, is to be truthful and have integrity. When he loses that, he may cover it up, he may pretend that he is right, he may pretend that he is honest, he may say that he is doing right, and that he has never done anything wrong, — he is in a false position every single moment, and he can never recover. He has put out his advertisement in the world, and he is going by it. He must stop, that is all there is about it.

This woman was in that condition of mind; she was just in that position. She tries to make the world believe that she was honest; and she would get down upon her knees and pray to God to protect her and the family, and Dr. Beers would be near by and uppermost in her mind; and she, pursuing that course, naturally drew to her the man who made the big speech in the cemetery. I do not think any more of those speeches than my brother Goodrich does, but the fallacy of his citing that speech in this case is, that it was made a year after all this took place. He did not make that speech to influ-

ence Sarah Jane Robinson, because it was made nearly a year after Prince Arthur's death. Of course it had no relation to this case; and although it might have been foolish and all that, it was not applicable to the facts in the case. That was after the death of Lizzie in February, 1886, a year after Anna died, so it could not have had any force, as he tried to apply it in this case.

Here was a woman in this state of mind. Was she one that you would suspect would do anything that was wrong? Is she the one that you would think would be trying to connive, as you might say, to get the insurance assigned to her for her benefit? Or would you think it was Mrs. White, or Mrs. Melvin, or Mrs. Baker, or any of the neighbors that came in there,—which would be the one? Take her in that condition of mind,—wrong all the time, a hypocrite above all the rest, knowing it, pursuing it, never had stopped going wrong all her life, that is, from the time she commenced down to that time,—would you think she would be the one?

Somebody gave this woman poison. I will assume that. I will assume that you believe it. Whether it killed her or did not kill Ann Freeman, somebody gave her arsenic while she was sick. Would you think it was Mrs. Wright, or Mrs. Melvin, or Mrs. Baker, or the nurse, or the doctor, or any of the doctors? No, not one of them. Why not? They had not the least motive in the world for doing it. You would no more think that one of them would administer arsenic to this woman while she was sick than you would think you, Mr. Foreman, would have done it. Why? Because there was not a motive, and because we know in judging of each other's minds and the motives of each other, that there was not one of them there that thought of such a thing, and there was not one of them, in all this evidence here, from beginning to end, that has said one word to show that they wanted insurance, that they wanted the children for some purpose, or that they wanted anything that might belong to Prince Arthur Freeman or to anybody else there,—not one of them. But she says that Dr. Beers went into the room when Anna was sick; went in and stayed ten minutes, and she out in the other room, and she is careful to say that she did not go in when he did. Why? Do you not see why? Because she was introducing Dr. Beers to everybody there with whom she came in contact as her friend, and to one as her doctor, and he came there to see her; and if he carried the medicine there to give this woman, or the poison to give this woman, and she went in the sick room with him, and it was discussed when she was there, then she and Dr. Beers would both be equally guilty of the crime. She knows enough to keep herself out of that. Do you not see she keeps herself out of that room? And when Dr. Beers is in there she is sure to be out in some other part of the house. That is her testi-

mony, and she is the only person, gentlemen, out of all the witnesses here, I believe, that said Dr. Beers went into the room while Anna was sick. I believe there was not another one.

Mr. GOODRICH. Mrs. Marshall.

Mr. WATERMAN. Mrs. Marshall was there and took care of her, and says he did *not* go in there. That is the evidence. What interest had he? Why should Dr. Beers go there, just calling there, and not calling to see this sick woman, having no interest in the family, or any expectation of marrying this Sarah Jane Robinson, for he knew he could not? The claim is perfectly ridiculous that he wanted to marry this woman, and went there for that purpose. What motive had he to go in there and give Mrs. Freeman poison? None whatever. You cannot think of one. He never had spoken of it. He never has attempted to get anything away that was or could be a benefit to himself, and never has made an effort in any respect whatever to benefit one cent out of this matter. Why should you say upon her testimony that he went in that sick room? Now she probably knows that that is not true. She knows he did not go into that room, and yet she states it to you here under oath. Why does she not say she went into that room with him? He was there as her friend. How came it to pass that he came there, and went into that room, and she not go with him? How came it to be so? Why, it is the most unnatural thing in the world. It is not consistent with the actions of a sister or a friend, or of anybody else. Yet she distinctly tries to impress that fact upon your mind. Why? Because she is in that state of mind of which I have spoken; because she knows that she is wrong; and she attempts to excuse herself from the fact that whatever was administered to that woman there — and she knows all about it — she did not have any hand in it, that it might have been done by somebody else, which she knows is not true; and it is to excuse herself, whereas it really puts her one step further on the line of falsehood, and there is just where it does place her.

Of course, you understand that a person in her position has a right to testify. If there is a person in the world who has an interest to falsify she is the person. It was not long ago that a person indicted for any crime could not testify, because it was thought the weakness of human nature was so great he would have to tell a lie if he went on the stand, because his interest was so great that he could not tell the truth; therefore he was not allowed to go upon the stand. The law is different now. Any person can testify, and you can take their evidence for what you think it is worth. You are not obliged to believe, — there is no arbitrary rule of law by which you are obliged to believe their testimony. It does not make any difference who the witness is. You have all ways of testing the truthfulness of the testimony.

You test the witness while he is upon the stand. You examine the general appearance of witnesses, look at the consistency of their story, and take the circumstances surrounding and attending upon all the witnesses who appear on the stand. You have a right to judge of them, and are not obliged to believe them, if you do not think they tell the truth. You can take the whole or any part of their testimony. There is no law that you are bound to take what they say as the truth.

This woman is under all the inducement in the world to tell a falsehood, and she has admitted to you upon the stand that she has lied, and she also denies the evidence that we put in here, as to what she stated under oath at a former time, and says she never said it, — in regard to her ghosts that she had seen, and the statement that she made in regard to premonitions, etc., and presentiments, — so I take it you will not believe her testimony unless there is something in it which appears to be true; if not, it might as well be discredited. We cannot expect anything more. She may be, we do not know, convicted of murder in the first degree, and the strongest inducement in the world is held over her, and presses upon her to tell that which is not true; so you will take what she says with very much allowance, and discredit it entirely if you think it is not worthy of belief.

There is no one who states that Dr. Beers went in that room but her, and he says he did not go in there, that he never went into either one of the rooms. And he was there at Prince Arthur's before he died, and saw him in the room, but never entered the room. Is not his statement, gentlemen, as good as hers? Brother Goodrich says he has been in the State prison. He tells it himself. We do not know the fact of his being in there; it is a presumption against him. It was thirty-three years ago, and since that time he has had the confidence of the authorities of the State, and of Governor Andrew, who put him into respectable and honorable and responsible positions. He is one of the people of the world. He started and got into State prison, and it was, of course, a great misfortune to him, to recover from which will take him a long life, and probably he never can live long enough to get through it, never. He may be a truthful man now, he may have repented; there is nothing against him that I know of in the world, and he certainly has been trying to cure drunken people from the habit of drinking, which is a good deed, and from taking opium and morphine. He is in a good work there, and can it not be that he tells the truth? All there is is what he was induced to do and what he has done while he has been with this woman. She is just as bad as he is, is she not? How does it help her out any, by saying that she was with a mean man? She got him there under pretence that she was feeble and needed medicine. He went, and she,

twenty-five years younger than he, a good-looking woman, got him to call and make the visits, got to fooling with him and almost pulled his finger off, and he did not know it, to get the ring. She had it here. She got it and did not give it back, keeps it, and that is all there is against him. He tells the rest of it, and you understand it. He says he was wrongfully convicted. I do not know anything about that. I say the presumption is against him, but it does not necessarily impeach him for truth and veracity. It could have been put in here to impeach his reputation, but not necessarily to show he was a liar. But take the circumstances here. He was living in Allston with his wife and family, living in Boston, having an office here, known by a great many people here since 1862. It was about that time he came from Connecticut. He was known by thousands, perhaps, living near by, and she knew it, and he knew all the time that he could not marry this woman, and that he could not possibly expose himself in that way; at home every day. He says that he never told her that he wanted to marry her, that he never made love to her, that he did those foolish things which are stated there in a foolish way, and that was all there was of it, an indiscretion caused by her leading him along. You can imagine how it would be, just as easy as anything could take place, and that what he says is the true side of the case, and the facts as they relate to those transactions. He tells this probable story, and he is corroborated by his wife and by his daughter-in-law. They ask you to believe her, and not believe him, — that he wanted to marry her. Why, he had no such idea. He acted silly, came pretty near losing his finger; he lost his ring, but he never had any thought of marrying her. Why, if he had any sense at all, he could not have done that, could have had no idea of it. And they say that he was there Sundays all day with her. Well, if there is any truth in the statements of these respectable people we have put on here, he was not there Sundays, and he says he was not there, and did not stay there. The statements of such witnesses are a great deal more worthy of belief than any of the witnesses who said that he was at Mrs. Robinson's on Sundays. They ought to be believed in preference to the statements made by her son, because they are consistent with the actions of a man in the position he occupied at that time.

Foolish! well, you take any man and let him come into court, and be put on the witness stand, and asked about the things he has done; asked about what he has done in his own family, and how foolish he would appear. We would not want to hear it stated, it is foolish; it does not belong here, and can be ridiculed. You can create ridicule by presenting a man in this way. There is hardly a physician in Cambridge or Boston, perhaps, that has practised medicine for any length of time that has not been under circum-

stances where, if he were put on the stand, a lawyer could make it ridiculous, and make him appear foolish, and wish he was not there. That does not hurt his character. It is necessary to get all the facts, and these things come out, and there is where Dr. Beers is. He has not been careful about his reputation, but he was induced to do whatever he did do by the actions of this woman, Mrs. Robinson, and he has done nothing, that is, with any intent to do anything wrong, whatever. If he has done that which is foolish, he has been led away, and by and through her influence only.

Now, take his statement. He was called there, — they had got acquainted; she says on the cars, and he says he met her in the cars, and she soon made application to him. How could he make advances to her? You can see how readily she could make an advance to him. He was a physician and she could send and call him to her house on a pretence that she wanted medicine when she did not need it. She went to his house, she says herself, and told the lady there that she wanted to see him; she did not tell who she was, that is, she did not tell what her business was, where she lived, but she appeared like any woman who called there with a legitimate purpose, and when told that she could see Mrs. Dr. Beers, did not want to, and went away. But she had been to his house, and he went to see her. He says that she sent to him fifty times, more or less, for these powders, these prescriptions. She was not sick, she proves that, and he says that there was not any disease he called there to see her for, or to leave her medicine for, more than two or three times, but that the medicine was to keep her out of excitement more than anything else.

MR. GOODRICH. Did he not say two-thirds of his visits were professional?

MR. WATERMAN. He did say that. He did not say he left powders every time he went there, or two-thirds of the time, or anything of that kind, but I believe you will find in his evidence that he only gave her medicine two times, or a few times; I do not pretend to say how many, but he says she sent as many as fifty times, and he has sent these powders to her. You can judge whether it is true or not. What difference does it make? He went there. She sent for him, and he sent her these powders. I say his statement is as worthy as hers, and I do not know any reason why it should not be believed. What is there about it? It is not unnatural. It is pretended that he was trying to get a living, and was just such a doctor as would do what they try to charge him with. He did not profess to be the greatest doctor in the world, or the greatest man. He had a sort of specialty which led him into a certain kind of practice as a physician. We understand how those things take place. He is just as worthy of belief as she, and she is the only person who says

he was in Anna's room, and he says that he was not in there. Some of the witnesses, who testified that they gave medicine, whether in this case or the other I do not remember now, say that Mrs. Robinson was disgusted because she wanted to administer the medicine herself. You may think of that and judge of it, and see how much you think it is worth.

Now there was the death of Anna Freeman. It was Mrs. Robinson who was the only person that was interested in this; she is the only one that talked of the insurance; she is the only one that suggested that it should be changed so that it could come to her. It was she who pretended that she wanted it in her name because she wished to take care of little Thomas Arthur; it was she who got Lizzie to get these two children over to her house, and it was she who then went to work to get this man, Prince Arthur Freeman, to her house also, to keep him away from the Melvins, so they should not influence him to make any other person beneficiary under that policy. That was the next motive. It is perfectly consistent with the plan, nobody will doubt it, perfectly consistent, was just the way to carry it out; and she did that and tried to induce other people to use their influence to have him go there and live with her; and she brought to bear her own influence and the influence of her daughter, and of others upon his mind, until she set him against his own family, and got him to go there and live with her. If there is any truth in what the witnesses say, she had talked about this both before and after the death of Anna, and within two hours of the time Anna died she was trying to make this arrangement. Why, gentlemen, just before her sister died, towards whom they say she was so affectionate, she went in where she lay, almost dead from the poison that had been administered to her, and got her to make a division of her rings and her jewelry.

You tell me that this is the act of a pure-minded woman; that she would not commit a wrong; that she is not in the condition of mind to do a wrong. Why, it would have been just as well for her to have gone into her sister's room with something which would prevent her taking another breath of life. It was equivalent to killing her at that time. To go into a sister's room, sick unto death, and only a few hours to live, and work her mind up to divide her jewelry and her rings that she might get them, was not the act of an overfond sister. Then to come out of the room and say she had made it all right; to leave her lying there sick, feeble, unable to raise her head or a hand, and all but dead—to come out into the room and say, "I have got it all fixed, and the rings and the jewelry in my possession." And Prince Arthur says, "Where is my part? What

shall I do?" "Why," she says to him, "you know that she knew you would follow the children over to my house. You ain't half baked"—that is the testimony—that is the act of a pure-minded woman, is it not? Yet she is "affectionate and kind to her sister;" she is "loving;" and there never was such a loving sister as she. "Never saw two sisters," some of the witnesses have said, "think so much of each other."

That is enough, that is enough, we do not want to know any more about her. It is enough to convince anybody that she is in that state of mind which will permit her to commit any crime. She is wrong, either by her acts, which have brought her from one step to another into this condition, or she may be partially insane; no matter, she is not so insane but she can dodge questions and ward off blows upon the stand as well as any person you or I ever saw.

I am not going to say anything concerning those witnesses whose reputations have not been questioned here, and about which there is no more reason to question than about yours or mine. I am not going to stand here to defend Mrs. Wright, —who happened to be a neighbor of this woman and had occasion to go in there and do a friendly act, and had no motive or reason for saying anything wrong, —or any of the other witnesses. Gentlemen, you may take their testimony and weigh it and see what you think of it. If they state the truth, if all of these witnesses who testify here state the truth, or half the truth, Mrs. Robinson not only intended to get the insurance assigned to her without good cause, but to use almost any means to get it done.

She came out of the room where her sister was lying; had been in to talk with her; had been saying all the time she was there that she thought she was going to die, or would not get well, and believing, yes, gentlemen, knowing it, she went in there and importuned her to give her her rings and her jewelry, to divide them; and came out into the kitchen and bragged about it. That is the woman that we are trying here. That is the woman that these men testify was such a nice woman. They testify truthfully; they believe what they say; she appeared to them to be all right when she was on her knees in her house and holding prayers; and when she was at her table asking blessings, she was the same woman that she was when she came out of that sister's room with that jewelry in her hand, and told her brother-in-law that he was not half baked, —the same woman. Those prayers never went very high, they never were answered. She was the wrong person to pray until she had put herself in a condition where a prayer would do her some good.

Who else is there that has done anything? There is Mrs. Freeman, she died. There are the conditions of her sickness. There

is the mercury, there is the injected embalming fluid, there is the autopsy and the analysis. There are all the parties, Dr. Beers and all. You have them. Not one of them has done or made a move to the injury of this woman excepting this defendant.

I know they say that Belle Clough cannot tell the truth. Gentlemen, it was two years ago. Belle Clough was the most intimate friend that Lizzie Robinson had. Lizzie was then living. She died a year ago. Belle Clough was constantly visiting Lizzie, and was there just as often as she was pleased to go, and sometimes stayed there two or three or four days; and one time, I believe, she stayed a week. It was the most natural thing in the world that she should attend the funeral. There is no question but she was at the funeral, and she had no interest in this woman, Sarah Jane Robinson, excepting the interest which would naturally lead her in her favor, none whatever; nothing against Mrs. Robinson; had been with her family, her daughter was her best friend and most intimate acquaintance. She had lived a long time with them. She would be the first one that was called upon. She would go and stay there just whenever they asked her; that is the evidence in this case, that she had answered the call of these parties whenever they made one, substantially that. I do not repeat the evidence. She stated that she went to the funeral and rode in the carriage. She says it was from the grave at Chelsea, home. The inference was that she rode in the carriage from the church to Chelsea, — I suppose the church in South Boston; and the minister, Rev. Mr. Bates, no doubt truthful on the stand, testified just as he understood it, that she was not in that carriage when it left the church. Well, that is true, probably. It may be true, and yet Belle Clough might have been in the carriage, and gone to Chelsea in the carriage; but she says, when she is called to explain, that they went to the funeral at South Boston, and from there to the cemetery; at the cemetery Mrs. Melvin, if I have got the right name, and Mrs. Freeman, the old lady, went from there home; and that they then changed, and she rode in the carriage with Lizzie and her mother, and that it was then the conversation took place. Well, now it does not make any difference. The question is whether the conversation took place which Belle Clough has repeated to you; whether Mrs. Robinson said to her there what she testifies to, that she wanted Lizzie to use her influence on Prince Arthur to get him to come home and live with her. It is no matter whether it was on the way from the church to Chelsea, or from the cemetery home; no matter where it was, if it is true. It might have been in the carriage. The only question is whether it was said. Now do you believe that Belle Clough has intentionally told you that which is false? The others say she was there and attended the funeral; and Mrs. Melvin

was there at the cemetery, and she and her mother went home, and the others came home also. That is what the other witnesses state. Why should she falsify about that? Well, my brother Goodrich says she had testified before on the stand relative to the conversation she had had with Mrs. Stanwood, and that in that testimony about the conversation, she stated what never took place. Now that is not so, as I understand it.

Recess until 2 o'clock.

AFTERNOON SESSION.

Gentlemen, — When the court adjourned I was speaking about Belle Clough. The funeral of Mrs. Freeman was nearly two years ago. I had said to you that she was a friend of Mrs. Robinson and her daughter, more especially of the daughter, Lizzie, and if there was any inducement to say anything that would be exaggerated it would be in favor of Mrs. Robinson. You will, of course, remember that there has been, as it has been stated here, an examination at Somerville, and this matter has been up for some time, and a great many witnesses have testified in the case, and that she is a girl, a young lady. It is nothing strange that she cannot relate to you upon first thought every transaction that took place in this matter; and it would not be anything strange if she got them out of order; and it would not be strange if she or any other person, after that length of time, should get the facts which are relative to one of these transactions connected with facts which are related to another. If she should go on the stand and testify to these things by rote, like the turning of a machine, you would not want to believe what she said. The fact that a person makes a mistake sometimes is the best evidence that he is telling the truth. It is wholly immaterial where this conversation took place, whether it was in going to the church or coming from the church, or going to the cemetery or coming from the cemetery, or whether it took place in a carriage. The question is whether there was substantially such a conversation as she says took place. Well, it took place some time, substantially as she states it, and it seems to me that there can be no question about it.

There is no inducement for her to lie, no motive for her to falsify against her friend, — one that she has been intimate with, and with whom she has never had any difficulty that I know of. There is no evidence of such in this case. There was no difficulty between them, and so far as we know by the evidence here there never has been. There is no reason for distrusting her; there is no

reason for questioning her integrity. I want to say something for her. She is what she is, raised there in life, not of the happiest kind, perhaps; in a position where she has to support herself, and her character and reputation are worth something to her. She ought to have what belongs to her. Because she is summoned by the Commonwealth to appear and testify in the case, and obliged to come here and compelled to go upon the stand, she ought not to be endangered by it, and her motives and her testimony ought not to be questioned unless there is a reason for it. It is of considerable consequence to her.

But take her evidence out of the case entirely, and the evidence tends to show just what she testifies to, that is, substantially, — not in the same language, but substantially the same facts. She has not tried to falsify to you and tell you what is untrue. She has no such intention at all. She is corroborated in this case and substantiated by the other witnesses who attended the funeral. In her first statement, that it was in going to the funeral — she did not state whether it was in going to the church or from the church — she is corroborated. She stated it as any one would. She testified that in attending the funeral Mrs. Robinson made these statements. It is in perfect keeping with what Mrs. Robinson had said before to the other witnesses, not in the same language, but substantially the same. It was to the effect that she wanted to get Prince Arthur to come and live with her, and she wanted Lizzie to use her influence with Prince, that she said she could do it, and that she wanted to get the insurance. The children were there, and she wanted to carry out this scheme, this purpose which she had before entertained of getting that insurance, and this talk was exactly in keeping with that. If Belle Clough, — I won't detain you upon this question, — if Belle Clough intended to falsify she could tell you stories concerning it about which there would be no question. If she wanted to make a statement here that she knew to be untrue, and intended to be untrue, she could state it so there would not be any question about the place or time, or anything of the kind, but she has not, gentlemen, and it is due to her that she should have it so stated.

Now, they had the funeral, and went home. In a short time, I do not know exactly how long after, — in a short time, as soon as Prince said he could get his matters arranged, some little matters, as his trunk and his clothes, he moved to Mrs. Robinson's, on Boylston Street. He must have gone there some time in the month of April, — March or April, I do not know exactly what time. It is not material to find out exactly what time he went there, but he went there to live, and the matter passed along. It was in Mrs. Robinson's mind to have this accomplished. She never yielded

the purpose that she had, but she continued in it, and continued it so long that on the 13th of May what we call the assignment was made over to her (as I gather from the evidence, it was made to her; understand me, gentlemen, it was not delivered until some time afterward, but the writing was made and dated on the 13th of May. I suppose it was made on that day for it was dated on the 13th of May), and it was done for the purpose of carrying out this plan of hers to get, in the case of Prince Arthur's death, this two thousand dollars. For some reason this matter, as I have once before stated, lay along until about the 27th of May before the one in supreme authority was notified. He was then notified, and acknowledged the receipt of the request to have it assigned or transferred to her benefit. It still lay along, for some reason or other, until about, not later, I think, than the 23d or 24th of June, — I do not get that exactly, but it was before his death, and it was after the 21st. It was finally accomplished, and was delivered. It was made a matter of record, and at about the time it was made a matter of record Mrs. Stanwood, who knew about it, went to Mrs. Robinson's house, — after notice had been left at her husband's store for her to call, — and assured them that it was all right. There was some question about the fees, and Mrs. Robinson seems to have thought there was a question whether she could get the insurance unless these fees were paid. I do not remember what they were, but a few dollars to be paid on the policy, and then all would be finished. Mrs. Stanwood, very much to her credit, that is, to the credit of the lodge, took the responsibility and paid the money herself, passed the receipts and accomplished it. Just prior to this there was an effort made, such is the evidence, to have the secretary see to it and to press it, and some of this effort was on the part of Prince Arthur himself. The request came from him to the secretary to have the papers finished and completed so that in case anything happened the money would go into the hands of Mrs. Robinson, who pretended up to that time, and all the time after the funeral of her sister, that she wanted this done for the benefit of Thomas Arthur, so that she could use the money to bring him up, and for his benefit. This is what she pretended all the time, that she wanted the money for this object, and in that way she induced Prince Arthur to make the assignment. He took her word, but the papers, when they came to be made out, as you will see if you examine them, were made out directly to Mrs. Robinson, without any trust being created between her and Freeman except what there was talked about. Whether she had an immediate hand in making out the writing I call the assignment, I think does not appear in direct evidence. But she had it in her mind all the time, and she was deter-

mined, and she never relinquished the intention that she had from the start, that she was to have that money. It was to come into her hands for her benefit, that is, it was to be made so that in case Prince Arthur Freeman died it would come to her. She felt, as she says, very much interested in Thomas Arthur's matters, and in his life; loved the boy very much, — but she never loved him well enough to suggest anybody else as the beneficiary to be named in the policy, never; she never loved him well enough to say that a friend might take that money, that it might be saved for him, to bring him up. It was to be made to her, and she told some one of the witnesses (Mr. Foster, her cousin, I think), who testified here, that if it had not been for the money she never would have had anything to do with the boy. She never suggested any one else. If she could not have had the money, she never would have had anything to do with the boy. And still she pretends that she thought the boy was hers, had been given to her by her sister, and that she loved him so dearly that she wanted him to come into her hands to bring him up, that she might have charge of him; and during all this time while she was doing this, she was concocting a plan to defend herself, concealing these facts all the time from her friends, and from the Melvins. They did not know anything about this until a considerable time after Prince Arthur's death. She concealed this, continuing in the plan which she conceived when Anna was sick, and pretended that she had a doctor out in Cambridge somewhere who was the guardian of the child. She carried this idea to them, that there was a guardian that had the money, so as to make them believe that they could not get it, and that she then had nothing to do with it. That is, they had not seen the papers, they did not know anything about it, and she was carrying on this deceit toward them. She denies this; denied it afterwards; denied it to Dr. Cogswell, and to one of the witnesses, perhaps Mr. Foster. She denied that she stated anything of that kind. He states it. You will say whether he states the truth about it or not. She told Mrs. Stanwood, just in keeping with what Dr. Cogswell, if I have got the right name, says, not to say anything to the Melvins about the insurance. She had talked with Mrs. Stanwood the day she went over from the store, and Mrs. Robinson says that was on Saturday, and Mrs. Stanwood says it was on Friday, the day before he died. No matter which day it was, it was when she was there, and that is just what Dr. Cogswell says.

Mr. STEVENS. Mrs. Melvin.

Mr. WATERMAN. I know Mrs. Melvin said it. She said that she had a guardian out there, and then she denied it, and that is precisely the same statement in substance that Mrs. Stanwood says she made to her or Mrs. Melvin. Now, she made these statements and was

concealing these facts, wanted them kept from the Melvins; doing these things secretly, saying all the time she loved the boy and wanted the money for his benefit, and was going to get it for him; and still she said if she could not get it she did not want him, and she would not have had him there if she had not got it.

MR. GOODRICH. Do you say, Mr. Attorney-General, that the prisoner told Mrs. Melvin that the money was not payable to her absolutely?

MR. WATERMAN. No, sir, I do not say that. During this time — that was in 1885, and along in April and May in 1883 — she had contracted debts to a large amount, quite a large sum, and she pretended to Dr. Cogswell, — that is the name of the man, I believe, that came and advised with her about depositing it in the savings bank, — she pretended when she got the money that it was for her, and she took a certain portion of it and paid it away. It was divided into three parts, she had three checks. Having got his advice where to deposit it, and how to do it, she took the check which the Order gave her and got him to divide it up and give his own checks. She told him afterwards that she had invested the money in mortgages, and she says herself it was not true; she admits that was a falsehood when she told it to him. Then she says she told him that the money had been paid back to her, and that she says is also untrue. I do not know what she means, she did not explain it, but she said it. She kept this money, and instead of doing that with it which she pretended she was going to, kept and used it to pay her own debts; paid it to these several brokers who have testified here.

Now, she knew all the time she owed these debts to these brokers. From 1883 she knew that she had falsified to them; she knew that she had misrepresented to them, and she knew that she was under obligations; and, perhaps, criminally liable for what she had done in deceiving them, in borrowing money and using a fictitious name for the purpose of concealing her acts.

MR. GOODRICH. I think all the evidence in regard to assumed names was ruled out. Neither was there any evidence of the contents of the mortgages.

FIELD, J. The evidence that she gave a different name when she borrowed money was admitted. The contents of the mortgages were not admitted. The reasons why she gave these different names were not admitted, on objection by her counsel, but the fact that she gave a different name in two cases was admitted.

MR. GOODRICH. I supposed that was ruled out.

FIELD, J. No, the contents of the mortgages were not admitted, but the oral statement of what her name was when she procured the loan, if the name was otherwise, was admitted. As I remember

it, the government offered to prove a mortgage was given under an assumed name. That was ruled out on the ground it was a written paper. The mortgage was the best evidence, and it was not produced. It came in afterwards, without objection, that in two or three cases she had given another name.

MR. GOODRICH. Orally?

FIELD, J. Orally, yes, sir. Then the offer of Mr. Desmond, I think, that he had made threats in 1883 was ruled out, though some allusion to it was made afterwards in his testimony, but we said that was too remote, and there was no evidence that he pressed her on that account afterwards. Is that your recollection?

MR. GOODRICH. Yes, sir. I think that is not a very material point. I thought that all reference to using any assumed name had been ruled out. All the evidence certainly in regard to mortgages containing assumed names was excluded.

FIELD, J. That was ruled out. The other came in without objection on either side. You may remember she was asked, and she said in three out of five cases she gave her own name. There was no exception taken to the oral statement of the name she gave when she applied for the loan.

MR. WATERMAN. Is it not proper for me, your Honor, to argue that she gave those different names for the purpose of covering up circumstances, and because she was pressed for money?

FIELD, J. I think the fact that she gave an assumed name when she got the loans, and that those loans continued, if they did continue, after the death, is evidence in the case from which you have a right to argue anything which you think legitimately ought to be argued from it. But we admitted no evidence that she had been threatened with criminal prosecution.

MR. WATERMAN. I take her as she was. We have a right to judge persons, judge of their intentions and motives by their acts, and the natural consequences of their own acts they are presumed to know. When she obtained the money under assumed names she did it for an illegitimate purpose, and it was for the purpose of helping herself in some way; it was done for the purpose of getting money which she thought she could not get if she did not do it in this way. She was poor, she had some furniture, and she had to get the money the best way she could, and she took this way instead of taking an honest way to get it. That is the way it was. She had the intention of getting it in that way; and if she had the sense which is ordinarily bound up in the head of a woman like her, she had a right to believe that she had in some form laid herself liable to the law, which she was bound to know. She knew when she got that money in those ways

that she had committed an act that might give her trouble ; and she knew this up to the time she paid the money on those debts, one after another, from Oct. 2 to Oct 5, 1885, which was within two weeks from the time she got the check from the Order of the Pilgrim Fathers. Now all the time when Ann was sick, and when Prince Arthur was sick, and during the time of the funeral, — through and covering it all she owed these debts, that is, from 1883 ; not one of them, I think — perhaps one of them may have been in 1884, but all the time prior to the death of Ann, and prior to the time she was taken sick, she owed these debts. She had them upon her mind, — this woman that I have described to you, this sister who went from the dying room of a sister, and bragged about the rings she had got from her. She entertained the same purpose throughout the whole time ; it was part of the whole transaction and the whole purpose that she had ; and when she got the money upon this pretence, as I have shown you, instead of using it for the benefit of little Arthur, she went and paid these debts. You have a right to believe that she knew the obligations she was under, and the evidence shows that she went and paid the money in these ways. She says she let Dr. Beers have four hundred dollars or five hundred dollars, and he says she did not. If you can settle which way it is, very well. She had the money and paid it to four or five of her creditors, and paid the last one, I think, on the 5th of October, 1885, which was within ten days of the time she got the check for the insurance. Now she never intended when she got Prince Arthur to make this assignment to her to use the money for the benefit of the boy. She did not love that boy well enough to do that, because she had said she would not have taken him if she could not have had the insurance made over to her. She did not intend to apply that money to the keeping and raising of Thomas Arthur, which she said she did from the beginning, but she always intended to apply that money to her own use.

Well, they say, “This was two thousand dollars. Do you suppose she would lay a plan to kill her sister and kill her brother-in-law to get two thousand dollars ? It cannot be,” my brother Goodrich says, “that this woman for that little sum of money would commit all this crime.” Why, gentlemen, the young man that was hung in this county so recently that his body is hardly cold committed a worse crime than that for the paltry sum of less than three hundred dollars. Crimes have been committed worse than this, if possible, for a great deal less money than is here involved. You cannot weigh this case in that way, by dollars and cents. It depends upon the condition of the mind of the person, of Mrs. Robinson. If she entertained a disposition such as I have attempted to describe to you, and had such a

character as I have attempted to describe to you, it required no large sum of money to induce her to continue in crime.

It is not necessary always for the Commonwealth to prove a motive; it is not necessary to find a motive to convict a person of a crime. The question is, is it a fact? Do you believe beyond a reasonable doubt that this person is guilty of the crime charged? If you do, no matter for the motive. It is satisfactory to find a motive, it is more convincing to the mind to find a motive, but if you cannot find a motive, if the motive is concealed within the brain of the person who committed the crime, that is no reason why he should be set free. There was two thousand dollars here. We do not know what other motives were entertained by this woman in this matter. We find this motive. This was for her benefit. She pretended one thing, and she did another, and what she did was not in keeping with the pretensions she made.

Now, gentlemen, I have talked to you about her sister's death, about the funeral, about the policy, about the money, and about her paying it out and about her debt. Prince Arthur was at her house. I take it he was not the most lively man that you could find, — a man, perhaps, of ordinary intellect and ordinary skill, but he was a laborer, and may have been slow. He was in poor circumstances, had got out of work, and one time she found him a place at Mt. Auburn, and then found fault with him, according to the testimony of some of the witnesses in the case, for leaving that, and going to South Boston to work in an iron foundry. She says that she complained because he went there, and we find her accordingly finding fault with him, saying that he was lazy, that he had become good for nothing, that he might as well be dead as alive, as one of the witnesses expressed it; and another one, that she wished somebody would dose him and get him out of the way, she had got tired of him; and it did not take her long, after she got the papers made out, and the object that she sought accomplished, to get tired of him. The papers, gentlemen, were not finished and delivered until about the 21st, 23d or 24th of June, and Prince Arthur died within five days of that time. He was taken sick on the 22d, which was on Monday. That is the beginning of his main sickness. He went to South Boston that morning, was unable to work, and about three o'clock in the afternoon left his work and went back home. He was unable to work. He stated to somebody that he vomited on his way over to South Boston, that he was sick while he was there, that he tried to work, was unable to, and went back home. I know that the Rev. Mr. Bates, who lectured in Boston on Sunday afternoon prior to this, said that he saw him and that he did not look well that afternoon, — that was late in the afternoon, — he noticed that he looked feeble, did not look well. Perhaps

that is so. I suppose it is so, if Mr. Bates says so. I suppose that he thinks so at any rate, and very likely he is right about it. But the other witnesses, the superintendent of the shop, and the Rev. Mr. Crawford who lived down that way and knew him, and saw him quite often, said he saw no difference in his health after his wife Anna died down to this time, when he was taken sick. Some witnesses introduced on the part of the defendant have given evidence tending to show that his health had been declining from the time Anna died, and that he himself had said or claimed that he was in declining health; and one of them, Charlie, says that when he came back from Boston over the bridge he said he had a good mind to throw himself overboard. Now these witnesses from Mt. Auburn, where he had worked, say they never noticed anything different in his health and condition after his wife's death from what it was before. At all events, gentlemen, he had been in a condition to work; had performed labor in South Boston and other places whenever he could get it, down to this time. He was taken sick on that day. There is no doubt about that. There is no effort to contradict it, and it cannot be contradicted. He was taken sick that day, went home sick, and never got out after he went home, never got out of the house. It was on Monday, and he died Saturday night. There is no question about his sickness, there is no question about the nature of his sickness, there is no question about the symptoms of his sickness. They were the symptoms of arsenical poison. There is no question about that. I do not propose to argue to you anything in regard to his death, and its having occurred by the use of arsenic, because there was no embalming fluid used at his funeral upon him, and the symptoms which he had when he was taken sick, all are agreed, were symptoms that follow the administration of arsenic. He got it somewhere. He lived from Monday until Saturday night, to a quarter before twelve o'clock. If he had been given that morning a dose large enough to cause him to vomit, there would not have been left in him enough of the arsenic to have caused his sickness to continue in the manner that it did until Saturday night. There must have been a repetition of the administration of arsenic to him between those dates, because he was sick, as the doctors describe it, in just such a manner as people are when they have taken more than the quantity that the stomach will bear, which causes so sudden an inflammation to take place that it makes the person vomit, and, therefore, the arsenic must have been mixed with the food which he had taken, and was thrown off. He continued, sometimes a little better, sometimes worse, until quarter before twelve on Saturday night, when he died.

He had Mrs. Robinson to take care of him. There were no other persons, according to the evidence, who administered medicine to

him. There were no other persons who had an interest in him or against him to do anything to him. There was no person in that house, from the time he was taken sick to the time he died, that had made a threat against him, that had an interest to take a cent from any person, or who had said that he was a fool, or was half baked, or anything of that kind. No person had said a word or had cause to say a word against him or utter a single sentence in regard to his life or his death, except this very defendant, not one.

There was no embalming fluid injected into his body after his death, and when he was taken from the grave and his body examined and analyzed, it was found that it contained arsenic enough to kill him and more too. The quantity that was there, for he had taken one dose of arsenic on Monday morning or on Sunday afternoon before, and had gone through the vomiting and wrenching and trouble that he had within that time, — this quantity of arsenic, testified to by Professor Hills, was not injected after death. It was there, it was put there; it was given him while he was sick, and who gave it? Mrs. Robinson took care of him, she ministered to him. She says Dr. Beers was there. He is the only scape-goat you can find in this whole transaction; nobody else, no pretence that anybody else here has done a thing. Dr. Beers is the scape-goat, her doctor, her associate; he is to be made the man to take the whole of this without any reason, without any evidence except that she states that he went into the room and she kept out. He says he did not go in there. He only saw him once. He saw him through the door, but never went into the room. He was there, asked to go there; never had anything to do with him, had no reason, no motive, no interest, no object; had made no threat, and had no purpose that we can think of. This is all there is. He died with arsenic which had been given him. He had it. Somebody gave it to him. It was not an accident that he got it. There is no pretence of that kind. There is no attempt to show that arsenic was in the house, or in some place, or in some of the medicine that was delivered to him. There is no pretence that there was an accident in the delivery of arsenic to him from some dish, or bowl, or some instrument unintentionally, not at all. She claims that there was none in the house, she never knew what arsenic was; she never had any, she never bought any; she did not know the color of it, or something of that kind; did not know anything about it whatever. Now, who gave it to him? He had it; he did not get it himself. He never got off of the bed, never bought it; he never asked for it.

There was something said in the opening of this case that they would want some evidence to go in on the theory that he might have committed suicide; but all the evidence there was about suicide

comes out in what Charlie Robinson said, that he had a mind to throw himself over the bridge. There is no attempt made to show that he had purchased anything or been anywhere. If he had the intention or inclination to commit suicide, and had said to Charlie, "Why, I would just as soon die as live," and had a good mind to throw himself overboard from the bridge; if he had gone and bought arsenic, somebody would have known it, or he would have said something. He would not have said he was going to commit suicide and stop there. But there is no pretence that he got it or that anybody did. There is no attempt to account for it. We cannot find where it was, but it was there, and she was administering it to him between the twenty-second day of June and the time he died.

On the other hand, they say they put on Charlie to prove that she did not get his breakfast that morning. She says she did not get his breakfast on Monday morning; he got it himself; that he and Charlie used to get their breakfast early and go away before she was up. Charlie says in his testimony, you will find, that he cannot state whether he took breakfast with him that morning or not; he cannot state certainly whether he took breakfast with him that morning or whether he did not. He thinks he did, I believe. I think that is the effect of his evidence.

MR. STEVENS. He said he did not know whether he did or not.

MR. WATERMAN. You, gentlemen, will remember what it was. I can read it to you if necessary. That is substantially what he said. But suppose he did, or suppose he did not. If what the Rev. Mr. Bates says is true, he must have been commencing to be sick the night before; no matter if he was not actually sick then. If he was taken sick on Monday morning from something he had taken that morning, was it necessary for Mrs Robinson to get up and get his breakfast, and have him eat breakfast with her or she with him? Not at all. She could administer the poison to him, she could fix his food. She was the one that could do it, and was the only one that could; and she could do it in such a manner that it would be effectual.

This is what Charlie said: —

Q. Do you remember the morning that your uncle was taken sick in the afternoon? A. Yes, sir.

Q. Who got your breakfast that morning? A. My uncle did.

Q. Do you remember whether you and he sat at the table that morning? A. Well, I can't exactly remember whether we sat together that morning or not.

Q. Who usually got your breakfast? A. He always got it.

Q. Always? A. Yes, sir.

Q. What time did you usually leave in the morning? A. I used to leave about half past six.

Q. And what time would Freeman leave? A. He would go a little before that, probably six or a quarter past.

Q. And who usually sat at the table with you and him? A. Nobody.

Q. You took your breakfast before your mother got up? A. Yes, sir.

Q. When did Willie take his? A. I suppose he used to take his when he got back from Boston, etc.

Will you say they did or did not sit together that morning? Was Charlie at the breakfast table with him or not? You cannot settle it, for Charlie did not know, and he is the only one that can tell anything about it. He does not know whether he was there or not. It may be that this man Freeman did not get his food at the breakfast table, or his drink, or whatever it was that contained the poison. He got it somewhere before he left the house, and he continued to get it at that house from that time until the time he died. And who was there to administer it to him? No one but this person. No one had full control of him. It was she who took care of him. It was she who entertained this purpose to get this money and to carry out this design. She had got the papers all fixed. She had kept him alive until the time came when she could kill him and accomplish her purpose. If she had killed him before the papers were delivered she would have received nothing and she knew that, and she took the precaution to see that those papers were fully made out and fully finished before she went to work to administer the poison to him.

Well, you say, it is a bad charge to bring against a woman. It is. It is a serious matter to think of. You cannot conceive, perhaps, how the human mind can get so low, but, as I said to you, when a person begins to go down and continues to go down, and suffers himself to commit one crime after another, — and one after another, — the motive may be small to induce him to commit a greater one, and so each successive crime is greater than the preceding one, and so she continued on until she put this man out of the way.

Now, gentlemen, was she in this state of mind, and was she the person to do this? She said these things you have heard in evidence before the death of these persons. She denies it now, but it is testified to by so many that it seems to be a fact established beyond all question. She pretended that she had visions and premonitions and presentiments; that when these persons were taken sick they were going to die, she said they were going to die; and she said of Prince Arthur that she knew when he was taken sick that he would die, and there is evidence by some person here, I do not remember the name of the witness, that she said she expected, when he came home that day, that he would come home sick, and that he would take his bed and die; and I think that one witness stated that she said when she saw him coming that she stood looking, expecting that he would come

home, as she had been informed from above that he was going to be taken away.

You heard the testimony of these witnesses and you heard what Mr. Smith said. He was the man who delivered the long lecture here before he stated the fact that she had said to him that she had heard the father call for Lizzie, or Lizzie call for Willie, and that they were coming to take them away, and they were taken away, and she knew it, she heard it, and she said it was true, and predicted it, and knew they were going to die. Other people did not see why they should die, but she says Prince Arthur Freeman, — although he had up to this time had good health, substantially like other people, yet, without any reason, she predicts that he is going to die, as she had in the other cases. She goes on the stand and denies that. Mr. Smith says she did say it, and she denies it now, saying that she only had a dream and that she told what Dr. Beers said, that he had premonitions. And when we turn to what she testified to before upon the stand, and put in her testimony where she said she had had those visions, she denies that she made this statement here in this court under oath. Now what can you make of her? What can you make of that woman? How can you reconcile these matters? How can you find her anything but a woman that will do anything and testify to anything, one way one time and another another time, upon the same subject? She had been upon the stand and she had forgotten that she testified before in that way. She was ready to testify to anything. She had forgotten that she made those statements and averred and said they were true, and when we come to ask her the question now, all she can do is to deny that she ever made the statement. Can you depend upon anything she says? Do you not believe she is ready to do anything? She was preparing herself in saying that she had these premonitions for the purpose of protecting herself after she had committed these acts; she was preparing the way to clear herself; she was making her defence before she had committed the deed. That is what she did that for. That is what she said those things for. She did not have any premonitions. Her husband did not speak to her, and she did not think he spoke to her, Lizzie did not speak to her, and she never thought Lizzie spoke to her, and she says she never was a Spiritualist, and never believed in spiritualism, never thought of it. She said those things because she was preparing to defend herself after she had committed these crimes.

Well, gentlemen, we have had a long trial. There are a good many facts in this case to be considered, and you have listened patiently. I have no doubt you are tired of the case, but on account of the importance of it, and the interest you must have in it on account of its importance, you have been patient. I have no desire to wring from

you a verdict. The community is as much interested as I am. Each one of you has the same interest in the result of this case that I have. The Commonwealth presents this case to you, believing that you should consider it, and believing that this prisoner should be tried for this crime. It is no place for me to express to you any belief or opinion that I have of the guilt or innocence of this woman except so far as the evidence goes in the case. From this evidence which we present to you we claim that you should convict her, that she is guilty. We claim that these circumstances could not all of them have taken place, and she be innocent.

Gentlemen, you have the responsibility upon you. You will consider the case, and will give it the consideration, I have no doubt, it deserves. Do not be afraid to do your duty. Do not let your sympathy for this woman enter your mind. Look to our interest, look to the interest of the people of the Commonwealth. Here have been two people that have gone out of the world by the use of poison. She is the only instrument that could have done all these acts. She is indicted for it. This evidence is presented to you in expectation that you will believe she is the person that is guilty. If she is guilty, she ought to be punished without any hesitancy. Your sympathy will not, I am sure, extend into your consideration of the case. If you believe that she is guilty of murder in the first degree, be ready to say it, and let the consequences go upon the authorities. As to the sentence, you have really no right to take into account what the court may do, although there is no discretionary power; if your verdict should be guilty of murder in the first degree, she would have to receive the sentence of the law. But there is always a way out, and you never can know what the end will be when a criminal gets into the hands of the authorities. You have no right to say it will be this or that. If you do not believe that she is guilty of murder in the first degree, then she is guilty, if guilty at all, of murder in the second degree. If she is not guilty of murder in one of those degrees, gentlemen, I do not see how she is guilty at all. You cannot reduce it to assault and battery. You cannot reduce it to manslaughter. There is no excuse, no extenuating circumstances. If it was done, it was done with the intention of accomplishing the purpose.

Now, gentlemen, if I have kept you longer than you think I ought I hope you will just set me one side, and consider the case. Do not take me into account, or what I have said, or what I have done, and do not let any prejudice either one way or the other influence you in making up your verdict. Consider the evidence as you have it, and the law as the court shall give it to you.

FIELD, J. Mrs. Robinson, in accordance with the practice in this Commonwealth you have now the right to address the jury in your

own behalf, if you desire to do so. If you do not, no inference is to be drawn against you. It is entirely at your election whether you will or will not address the jury.

Mrs. ROBINSON. I am advised by counsel not to say anything. I am satisfied with the way they have conducted this case, and the kindness they have shown to me. I decline to say much I would like to say, but I must say this much : we never will meet again ; but will meet in a higher court before the Judge of all the earth, and there I will not be charged with this terrible crime, for I never administered poison, nor know of any one administering it to Prince Arthur Freeman or any one, therefore I am innocent of this terrible crime of murder.

CHARGE OF JUDGE KNOWLTON.

Mr. Foreman and Gentlemen of the Jury,—The prisoner at the bar is charged with murder, which is the highest crime known to our law. Upon us devolves the important duty of determining in a court of justice whether she is guilty of the crime of which she is accused. In cases of this kind it is the duty of the presiding justices to direct the course of the trial, to determine all questions of law which arise upon the evidence, and, finally, to instruct the jury in all such matters of law as are properly applicable to the case, and assist them as much as they may in applying these rules of law to the facts, and in coming to a conclusion which is to be expressed by their verdict, and which is to be the truth. It is the duty of the jury to take the law as it is given them by the court, to consider carefully the rules applicable to the case, to weigh the evidence, to determine the facts, to apply the law to the facts, to reach their conclusion, and to answer by their verdict the question whether the prisoner is or is not guilty of the crime with which she is charged.

In performing that part of the duty of the court which now remains to be done, I do not purpose to enter into any extended consideration of the evidence in the case, for that has been attentively heard by you, and has been discussed at length and ably by counsel for the prisoner, and by the attorney-general for the Commonwealth. I shall, therefore, limit myself to the statement of such propositions of law as apply generally to cases of this kind, and of such special propositions as are applicable to this particular case.

The indictment in this case contains but a single count. No questions are raised upon the form of the indictment. There are allegations in it, as in every indictment in a criminal case, which are in a sense formal, and which need not be proved as made. Of that kind are the allegations of the time when the crime is said to have been committed, of the time when Prince Arthur Freeman died, of the quantity of arsenic which is alleged to have been administered to him. Those charges may or may not be proved as made. It is quite immaterial whether they are or not, if they are proved in substance. In this case, therefore, as I have said, there is no question made by counsel for the prisoner as to any of these allegations. The substantive charge is of the crime of murder; the particulars of the charge as set forth in the indictment are not drawn in question.

Murder is the malicious killing of a human being. One who intentionally, without palliation or excuse, takes the life of a human being, does it maliciously, for he does it under such circumstances as imply wickedness of purpose and depravity of heart, which constitute what the law calls malice. A statute of our Commonwealth divides murder into two degrees. "Murder in the first degree is murder which is committed with deliberately premeditated malice aforethought, or in the commission of, or attempt to commit, some other crime punishable with death or with imprisonment for life, or with extreme atrocity or cruelty." Murder of either of these three kinds is by the statute made murder in the first degree; murder committed under other circumstances is murder in the second degree. In this case there is no contention upon the evidence that the crime was committed with extreme atrocity or cruelty, or in the commission of, or attempt to commit any other crime punishable with death or with imprisonment for life; but it is alleged that it was committed with deliberately premeditated malice aforethought, and so is murder in the first degree. The procuring and administering of poison, knowing it to be poison, and with the intention of taking human life, implies a degree of deliberation and premeditation. It is not necessary under the law that the deliberation and premeditation referred to in the statute should continue for any considerable length of time, and if you find in this case that the prisoner procured arsenic, and knowing it to be a poison administered it to Prince Arthur Freeman with the intention of taking his life, those facts will warrant a finding of guilty of murder in the first degree. The statute makes it the duty of the jury in a case of this kind, if they find a verdict of guilty, to say in their verdict whether the prisoner is guilty of murder in the first degree, or of murder in the second degree. There is a form of homicide, which is a crime of an inferior grade, that need not be considered here at length, which is called manslaughter. That is the taking of human life without lawful excuse, under circumstances of palliation, either in heat of blood produced by a sudden attack, or through gross carelessness. The killing of another under such circumstances constitutes manslaughter; but there is no suggestion that the crime committed by this defendant, if she committed any crime against Prince Arthur Freeman, was manslaughter. The attorney-general contends, and I suppose from the course of the argument that the prisoner's counsel concedes, that if she intentionally killed with poison Prince Arthur Freeman, she is guilty of murder.

The question, then, which you have to answer is a question of fact; did the defendant intentionally kill Prince Arthur Freeman by the administration of arsenic? And in considering that question it is

important that you should appreciate certain general rules of law applicable not only to this case, but to such cases generally. And first, as to the degree of proof required for conviction in criminal cases. The rule in all criminal cases in that respect differs from that which is applicable to civil cases. In controversies between man and man in the civil tribunals it is enough to warrant a verdict that the evidence upon one side fairly preponderates over that upon the other, but in criminal cases of every grade, from the highest to the lowest, the rule of law is that proof in order to conviction must be beyond a reasonable doubt, — that is, beyond a doubt which rests upon a good reason.

The word “certainty” is often used in connection with these cases, but the law does not require in trials of this kind absolute certainty in the sense in which you can reach absolute certainty in mathematical demonstrations, or in some departments of science, because proceedings in criminal trials are of such a nature that ordinarily it is impossible to reach that kind of certainty. In criminal cases you often have to deal with the intention, the purpose, the motive, the state of mind of another, and you see that these are subjects which cannot be weighed and handled as material substances can. They have to be reasoned about and dealt with in ways which call for a somewhat different kind of analysis, and they relate to results which are to be measured by somewhat different standards. So it is sometimes said in these cases that before finding a prisoner guilty, a jury should reach what is called a moral certainty of his guilt; and that means such an approximation to absolute certainty as will well warrant action in the most important proceedings, so that a jury can say that they have no such doubt as rests upon a good reason, and as would prevent action by themselves in the most important affairs of their own lives. That is in substance what is meant by the expression “beyond a reasonable doubt,” which is so commonly heard in criminal trials as a statement of the rule in regard to the degree of proof by which a jury are to be governed in determining whether they are or are not to find a verdict of guilty.

The burden of proof is upon the Commonwealth in every criminal case to establish the propositions stated in the indictment, and the prisoner in every criminal case comes into court presumably innocent. He comes to hear and to answer a charge, and until the charge is supported by evidence, he stands as an innocent person before the law. There is a presumption that every man is innocent and good and true, when he is called into court, until the opposite appears. There is a presumption that witnesses will tell the truth, and that men will conduct themselves fairly and honestly, and not fraudulently, until something appears to show the contrary in a given case. So in

this case, and in every other criminal case, the prisoner is to have the benefit of this presumption, which simply means that the prisoner is to be deemed innocent until this presumption of innocence is removed by testimony, or evidence of some kind, showing guilt.

Then, too, you have already been referred to the difference between direct and circumstantial evidence, and that is a subject which juries have to consider very often in the trial of criminal cases, because it frequently happens that the evidence relied upon, and which must be relied upon by the Commonwealth to prove one guilty of a crime, is circumstantial and not direct. And the difference is this, that direct evidence is the testimony of a witness directly to the matter which is in issue between the parties. For instance, if the matter in issue is whether the defendant stole an article of property, direct evidence is that of a witness who comes into court and says, "I saw him take it and run away with it." Circumstantial evidence, on the other hand, is testimony of witnesses to facts from which inferences may be drawn, — sometimes to a single fact which in itself indicates some other fact, as in the illustration which has been put to you, the track of a naked human foot upon the sand of the seashore, which warrants an inference that some human being has been there. That is circumstantial evidence, if the question is whether a human being passed there. Direct evidence would be testimony of a witness who saw the man going; circumstantial evidence would be that of a person who saw tracks of human feet passing along there. In the case which I have supposed the one might be quite as satisfactory as the other. It frequently happens that circumstantial evidence derives its force in large degree from the combination of a variety of facts, each one of which taken alone may have little or no significance upon the question which is in dispute, but all of which have such relation to each other, and such relation perhaps to the main fact in dispute, that when you take them together and consider them in their true relations, they point to the result which is sought to be reached by the party introducing them; and so you see in the consideration of circumstantial evidence it is important that the jury should first ascertain what the facts are in reference to the matters relied on, and then — what is quite as important — should weigh these several facts and draw such inferences from them as they warrant and require; should reason about them, with the aid of their knowledge of human nature, and of the motives which influence men and women; and so from all together should ascertain what the facts point to, and what is the truth as to the subject to which the circumstances are adduced. You see, gentlemen, that this process calls for experience, intelligence, knowledge of human nature and familiarity with common affairs. With the aid of those elements which are commonly found in a jury impanelled

from the country, a jury can often ascertain truth quite as satisfactorily from a combination of circumstances which are to be considered and weighed each by itself and all together, and each in connection with every other, as from the direct evidence and testimony of witnesses to the existence of the fact itself which is in issue.

It is a rule of law, and it is hardly more than a statement of the result which comes from what I have already said, that to constitute proof sufficient for conviction in a criminal case, every material circumstance proved must be consistent with the guilt of the prisoner, and all taken together must be inconsistent with his innocence. That does not mean that all the matters testified of must be consistent with the guilt of the prisoner, — there may be many matters testified of which are not proved, or which are not believed by the jury, — nor does it mean that each one of these matters proved must, taken by itself alone, be inconsistent with the innocence of the prisoner, but it does mean that when the facts proved, the material facts, are all taken together, and considered in their true relations, they form such a chain of evidence as is inconsistent with the innocence of the prisoner. And it implies, as you see, that immaterial circumstances are to be left out of consideration. You are not called upon to consider whether matters which have no relation to the question in issue are or are not consistent with guilt or innocence. The very fact that they have no relation to the subject implies that they are neither consistent nor inconsistent, because they are entirely remote from the inquiry.

In this case the Commonwealth contends that Prince Arthur Freeman died from the effects of arsenical poison, and has introduced evidence tending to show that, and that is the first and fundamental proposition in this case. Is that proposition established? Did Prince Arthur Freeman die from the effects of arsenical poison? If you are satisfied of that, you naturally will inquire, then, whether it was administered to him by another person; and the Commonwealth has introduced evidence which tends to show that it was. Whether it was or not is in dispute between the Commonwealth and the defendant. It has been suggested in argument that you may not be convinced that Prince Arthur Freeman, if he died from the effects of arsenic, did not himself take it for the purpose of causing his own death. Now, you will look at all the facts in the history of Prince Arthur Freeman so far as they relate to the subject of his death, and say what they indicate upon the question whether he died by suicide, and say whether you are satisfied that he did not die by suicide; because the Commonwealth has the burden of establishing the commission of the murder which is charged in this indictment. You have such testimony as there is in the case as to his going to work early in the morning of Monday, as to his being taken ill that day and suffering more or

less, as to his working a part of the day after his illness began, the time when he left, and his history from that time on until his death at about midnight of the following Saturday. You have in evidence something of what he said and did, and how he acted, and as to whether he did or did not indicate any anxiety about his condition or his family, and other things, which are all proper for your consideration upon this question, whether his death, if from arsenical poisoning, was from poison administered by the hand of another.

If that proposition is established you come to the next inquiry, which points directly to the final question of the case, whether, if it was administered by another person, that other person was the defendant? For that is the matter which is finally in dispute, and about which there has been most controversy before you. Upon that branch of the case the Commonwealth has called numerous witnesses, who have testified to facts indicating that she had the opportunity to administer to him poison, and it is a question for you whether that contention of the Commonwealth is established. If it is, it is one fact and circumstance in the case proper for your consideration. Taken by itself alone, the mere fact that one had an opportunity to commit murder, or to commit any other crime, would not warrant a conviction. Taken with other facts, it is entitled to such weight as you think should be given to it. It is certainly a proper matter for consideration in connection with the other evidence in the case, and if you have answered all the preceding questions to which I have adverted in favor of the Commonwealth, the weight of this evidence of opportunity on the part of the defendant to commit the crime depends somewhat upon the answer to the question how many other persons had a similar or an equal opportunity to commit it; and if you find any other persons did have opportunity, whether they are such persons that you have reason to believe that they might have availed themselves of their opportunity, whether they had a motive to commit the crime, or are otherwise to be looked upon with suspicion in that regard. But of course I express no opinion upon the weight of this evidence, or of any other evidence to which I may refer in the course of the charge. It is for you to say, if you find this defendant had opportunity to murder Prince Arthur Freeman, what weight should be given to that evidence in connection with any other facts you may find bearing upon this question.

The Commonwealth has introduced evidence tending to show that she had a motive to cause his death, and it is not in dispute that a document entitling his wife to have two thousand dollars as insurance in case of his death was transferred and made payable to Mrs. Robinson a short time, a few weeks, before he died,—or at least the writing of assignment was made a few weeks, and the final

record of it by the supreme secretary of the Order was made a short time, before he died. The evidence tends to show that subsequently Mrs. Robinson obtained two thousand dollars on account of the death of Prince Arthur Freeman, and testimony of numerous witnesses has been introduced as to what she said at different times within a few weeks before he died. Some of her declarations which have been testified to go further back than that, to a time four months or thereabouts before he died, and some evidence has been introduced of what she said after he died. There is evidence that, after obtaining this money, she applied it in part at least to her own use, that she paid some debts with it which had been in existence for a considerable time; and it is said that some at least of these debts were accompanied by mortgage security upon her furniture, and that for some of them she had given security under a fictitious name; and the Commonwealth urges that all this evidence ought to satisfy you that she desired money, and that the need of money was a motive influencing her, and a motive that was powerful in inducing her to commit this crime. On the other hand, the defendant's counsel argues, relying upon some of the evidence introduced by the Commonwealth, and upon other evidence introduced by the defendant, that this motive was not operative upon her, and that it ought not to be considered as a motive of weight, but that very little weight should be given it. You come in this connection to a contradiction in the testimony between different witnesses. The defendant has testified in her own behalf as to many matters, and her testimony is in direct contradiction, in many particulars, to the testimony of some of the other witnesses in the case, and so it will be important for you to weigh the testimony on the one side and the other to ascertain what the facts are which will be important for your consideration in determining the main question in dispute. Upon this branch of the case I ought to say that interest in a witness is always to be considered by a jury upon the question of the credibility of that witness. The defendant is a deeply interested witness in this case. Her son is in close relations to her, and you may fairly enough think that he is an interested witness. There are other witnesses in this case whom you may think, for one cause or another, in a greater or less degree, interested in it, and you should consider and carefully ascertain for yourselves what effect the interest which you discover in any witness has upon his credibility. It is not true that interest will always preclude a witness from testifying honestly or from testifying accurately. On the other hand, it may in a given case induce a witness to deliberately tell what is false, or it may cause such bias and prejudice, or produce such feeling as to mislead him when he intends to be honest. These are always matters

of some importance for a jury to consider, and especially when they see a witness who has great interest in the matter in controversy.

There is also testimony from some of the witnesses (which is perhaps closely allied to that upon the subject of motive) that this defendant made statements at different times as to what she expected in reference to the death of Prince Arthur Freeman, which the Commonwealth contends indicate on her part guilty knowledge of his impending death. All these statements are to be carefully examined and scrutinized. She denies them. You are to say whether she did or did not make such statements. If you find she made them, they are proper circumstances for your consideration, to be taken into account and to be weighed in this case, in connection with all the other circumstantial evidence in it. There is a great variety of evidence coming from the witnesses on the one side and the other; numerous circumstances have been testified to, and many of them call for very careful consideration to determine what they indicate, what inferences should be drawn from them, either alone or in combination with other circumstances, that affect the question which is in dispute between the Commonwealth and this defendant.

Evidence has been introduced of the acts and declarations of this defendant some little time prior to the death of Prince Arthur Freeman, and especially in connection with the last sickness and the death of her sister, Annie Freeman; and the Commonwealth contends that there is evidence in this case from which you ought to believe that she compassed the death of her sister as well as of her brother-in-law, and that you should find from her conduct in that particular that she acted under the motive imputed to her in connection with the death of Prince Arthur Freeman. As to all this evidence in relation to the death of her sister, Annie Freeman, it is my duty to instruct you that our law does not permit the introduction of evidence of the commission of one crime, upon the trial of a defendant upon a charge of committing another similar crime, as tending to show the commission of that last crime. There are reasons, which it is not necessary now to state at length, why a person who is put upon trial for the commission of a crime is not called upon to answer charges of committing other similar crimes, either before or after the commission of the crime which is charged in the indictment upon which he is being tried. And so in this case, if you find evidence indicating that the defendant caused the death of her sister, Annie Freeman, by administering poison to her, that is not to be considered as evidence indicating that she committed this crime, on the ground that having committed one crime you would deem it probable that she might commit another similar crime, or that you would believe her to be

criminally disposed in a particular direction, and so likely to commit the crime for which she is now being tried ; but all that evidence has been received for a single purpose, and is to be considered by you in reference to that purpose only, and that is, upon the question whether at the time referred to in this indictment, when she is said to have murdered Prince Arthur Freeman, she was acting under the motive which the Commonwealth imputes to her in this case, and which the Commonwealth contends is an important part of the evidence indicating that she is guilty in this case. The Commonwealth contends that when she administered poison to Prince Arthur Freeman she was induced to do so from the motive to obtain on account of his death the insurance on his life, and to use it for her own private purposes ; and as bearing upon the question whether that motive existed and was operative in her mind, we have allowed you to hear testimony of her conduct prior to that time in connection with the last sickness and death of her sister, which the Commonwealth contends is of such a kind as to indicate the existence of that motive to get the insurance money, and to use it for herself, and the Commonwealth contends that this evidence ought to satisfy you, not only that she had the motive at the time she administered the poison to Prince Arthur Freeman, but that she was acting under the influence of the same motive at the time her sister died, and that her action at that time is added evidence indicating the existence of the motive at the time of the death of Prince Arthur. Upon this question this evidence is proper for your consideration. You may think it of greater or less weight. You may think it important, or you may deem it of little or of no importance. It is not for the court to express an opinion as to how you should regard it in that particular, but you may consider it upon this question and not upon any other.

Matters in this case which are immaterial to the real question in controversy should be disregarded. A great deal of evidence has been introduced, some on one side and some on the other, which is related very remotely, if at all, to the real questions in issue. Testimony has been introduced at considerable length as to the relations existing between Mrs. Robinson and Dr. Beers. Those matters are of consequence only so far as they bear upon the question whether the defendant committed the crime with which she is charged, and I suppose it is contended that they are material upon that question through some relation to the question whether Dr. Beers committed this crime, because there is evidence that he was at the house where Prince Arthur Freeman was sick during his last illness. Just so far as you find her relations with Dr. Beers throw light upon the question whether she committed this crime, you will give them weight. So far

as they are in evidence, and have any bearing upon the question whether she committed this crime, or whether he did, or whether any particular person did, or some unknown person did, you will give them weight. But you will be careful, I trust, not to allow extraneous evidence, which is disconnected from the facts and circumstances which bear upon the question in dispute, to affect your minds or to influence you in any way.

Now, gentlemen, you will take all the facts that are proved which throw any light upon the charge made against this defendant, and weigh them; consider them in connection with each other; see what relation they have singly and in combination, so far as they have relation at all to the charge contained in the indictment, and you will say whether the effect of them, weighing them with reference to their effect in inducing belief in your minds, is or is not such as to satisfy you beyond reasonable doubt that this defendant is guilty of the crime charged against her. If the effect of all this evidence, properly weighed and properly considered under the rules of law which I have given you, with due regard to the relation of each piece of evidence to such other pieces of evidence as are material, is to induce in your minds such a belief of the guilt of this defendant that you can fairly say that you are satisfied beyond reasonable doubt that she is guilty upon this charge, you will say so by your verdict of "guilty." If, on the other hand, the effect upon your minds is not to convince you, but to leave you either with the belief that she is not guilty, or in such reasonable doubt that you cannot fairly say that you are satisfied that she is guilty, your verdict should be "not guilty." You will take all this evidence, gentlemen, and weigh it, and come to such result as from the effect of it upon your minds and consciences you are constrained to.

FIELD, J. There are three papers in the case, "A," "B," "C." Do the counsel desire that they should go to the jury or not?

MR. GOODRICH. I think it is well that they should, your Honor. They contain mostly dates which may aid the jury somewhat, and I think they better go out with them. I refer to two of them, the third I do not now recall.

FIELD, J. As I understand it, "A" is the application, "B" is the certificate, and "C" is the assignment, but the assignment and the application are pasted together. They can be torn apart, if counsel desire it.

MR. GOODRICH. Oh, no.

FIELD, J. Is it then the desire of counsel on both sides that these papers go to the jury? There are three papers, two of them are pasted together.

MR. GOODRICH. I desire that they should, your Honor.

The jury retired at three o'clock and fifty-three minutes, and returned into court the next morning, February 11th, and rendered a verdict of *guilty of murder in the first degree*.

Counsel for the defendant were allowed until the 25th inst. in which to prepare and present their exceptions, taken in the course of the trial.

SUBSEQUENT PROCEEDINGS.

The following bill of exceptions was presented and allowed : —

COMMONWEALTH OF MASSACHUSETTS.

SUPREME JUDICIAL COURT.

MIDDLESEX SS.

SPECIAL SITTING, 1883.

COMMONWEALTH v. SARAH J. ROBINSON.

Defendant's Exceptions.

This was an indictment for the murder of Prince Arthur Freeman by poisoning, a copy of which is annexed.

At the trial it appeared in evidence that Freeman was an inmate of the defendant's family at Cambridge, and died on the twenty-seventh day of June, 1885, after an illness of about six days. Evidence was offered by the government to prove that his death was caused by arsenic, knowingly administered to him by the defendant.

To prove a motive for the act, evidence was offered and admitted tending to show that at the time of his death Freeman was, and since 1882 had been, a member of the Governor Dudley Colony of the United Order of Pilgrim Fathers, and as such member had ever since 1882 held a certificate providing for the payment, by the said Order, of the sum of two thousand dollars to the beneficiary named therein, upon the death of the said Freeman; that Annie Freeman, the wife of said Prince Arthur Freeman, was the beneficiary named in said certificate; that the said Annie Freeman having deceased, the said Prince Arthur Freeman on or about the thirteenth day of May, 1885, appointed the defendant as beneficiary under the said certificate in place of the said Annie Freeman, deceased, in writing, and forwarded the said writing to the said Colony; that said appointment was recorded on the books of the Order not earlier than June 23, 1885; and that the defendant received from said Order on Sept. 23, 1885, the sum of two thousand dollars under said certificate. The by-laws authorized the holder of the certificate to substitute at any time another beneficiary for the one named therein, and also provided that said certificate should become void upon default in the payment of certain monthly dues and death assessments, accruing in the future.

Evidence was also admitted tending to show that the defendant, from some time prior to 1885, had been owing money to the amount of six or

seven hundred dollars, to different parties, which she was unable to pay, and for which she was hard pressed by her creditors, and which she paid after receiving said insurance, out of the same.

It appeared in evidence that on Feb. 26, 1885, said Prince Arthur Freeman occupied a tenement in South Boston with his wife, Annie Freeman, who was a sister of the defendant, and their two children, Thomas Arthur Freeman, aged about six years, and Elizabeth B. Freeman, aged about six months; that the said Annie Freeman died there on the said twenty-sixth day of February, 1885, after an illness of about three weeks; that on the evening of the twentieth day of February, 1885, the defendant called upon her sister, staying but a short time, and on the evening of Monday, the twenty-third day of said February, went to her sister's house to take care of her, and remained there till her death, the said children having been taken the day previous to the defendant's house in Cambridge; that immediately after the death of said Annie the said Prince Arthur Freeman, with his said children, went to live with the defendant at her house in Cambridge. The child Elizabeth B. died in April, 1885.

The government claimed, and offered evidence to prove, that prior to the death of said Annie Freeman the defendant had formed the scheme and intention of securing to her own use the two thousand dollars named in said certificate of insurance, and as a means of accomplishing this result, and as a part of said scheme, then determined to first kill the said Annie, then to induce the said Prince Arthur Freeman to assign to her, the defendant, all benefits under said certificate, and then to kill the said Prince Arthur Freeman and the said Thomas Arthur Freeman. This evidence was offered for the sole purpose of establishing the defendant's motive in killing Prince Arthur Freeman. Upon this offer the court ruled as follows:—

If evidence direct or circumstantial is offered and admitted tending to show that this defendant knew before her sister's death of the existence of the insurance, and that it could be transferred on the death of her sister to herself, and made payable to herself on the death of her brother-in-law; and that she before her sister's death had formed in her own mind a plan or intention to obtain this insurance for her own benefit, and this plan or intention continued to exist and be operative up to the time of the death of the brother-in-law; then we are of the opinion that evidence may be offered that her sister died of poison, and that this defendant administered it as a part of the method employed by her to carry this plan or intention into effect in connection with evidence that she administered poison to her brother-in-law as another part of the same plan or intention. We think that evidence of this knowledge and plan or intention on the part of the defendant, if there be any, should first be offered that the court may judge whether it is sufficient to warrant the introduction of evidence that the sister died of poison administered by the defendant.

To this ruling the defendant excepted.

For the purpose of proving such scheme and intention, as establishing the motive of the defendant in killing Prince Arthur Freeman, evidence was thereupon offered by the government and admitted. This evidence has been extracted from the evidence in the cause; and it has been found

impracticable to separate absolutely the different parts of the evidence; and the defendant contends that a part of the evidence hereinafter recited should not be considered as relevant to prove such scheme and intention. Such parts as are relevant are to be considered. This evidence is as follows:—

Susan S. Marshall testified that the defendant remarked to her that Prince Arthur Freeman was insured in or had joined the said Order about the time he joined said Order in 1882; that during the sickness of Mrs. Freeman the defendant requested her to come and assist in taking care of her, which she did on two or three occasions, first going there Feb. 25, 1885; and while there the defendant expressed the opinion that Mrs. Freeman would not live, to which the witness replied that from her appearance she didn't think she ever would; and immediately after Mrs. Freeman's death requested the witness to use her influence with Mr. Freeman to take his children and come to live with her.

Mrs. Mary J. Wright testified that she lived in the same house with Mrs. Freeman in South Boston at the time of her death; that she frequently saw the defendant while she was taking care of her sister; and heard her frequently say before her sister's death that she was satisfied her sister would never recover; and on one occasion the defendant said that she had had a terrible dream, and she knew her sister would never get any better, and that whenever she had a dream like that there was always one of the family died, and defendant knew her sister, Mrs. Freeman, would never recover; that at the time Mrs. Robinson came Mrs. Freeman seemed to be getting better, when, all of a sudden, she seemed to sink very fast; that defendant asked her to use her influence with Mr. Freeman to come and live with her with the children after the death of Annie, and this request was made before Annie's death; that on one occasion she requested Prince Arthur Freeman to go into the chamber where his wife was, and when she came out she said, "There, I have fixed it all right now; any little rings, or anything that Annie has, I have had distributed so that there will be no trouble if anything should happen to her, and the children are to come to me;" that defendant requested her to use her influence with Prince Arthur both before and after his wife's death; that defendant expressed the opinion that Mrs. Freeman would not recover, and within a day or two after she came to take care of her she said to various persons who came in that her sister would never recover.

Mary L. Moore testified that she lived in South Boston; was a member of the same church with Mrs. Freeman, and on three occasions during Mrs. Freeman's sickness, and while Mrs. Robinson was there, took care of her during the night; that defendant did not seem to think her sister would recover; that Mrs. Robinson desired her to use her influence with Prince Arthur to come and live with her after Annie's death; that Prince Arthur's life was insured, and that it was in her sister's name; that after Mrs. Freeman's death defendant told her that the Freemans were going to live with her; she didn't want Mr. Freeman and the children to go and live with his relatives. On cross-examination the witness said she thought Mrs. Freeman was very sick, and that defendant spoke of what disposition should be made of the children and of the family in the event of Mrs. Freeman's

death, just as any one would; and that the defendant appeared to be truly anxious and solicitous about Mrs. Freeman's condition; and noticed nothing which appeared to her to indicate that defendant was not really solicitous for her sister's health.

Belle M. Clough testified that she was an intimate friend of the Robinson family; that she attended the funeral of Mrs. Freeman at South Boston, and that she returned in a carriage with Mrs. Robinson from the cemetery to Mr. Freeman's house; that on the way she had a conversation with Mrs. Robinson about the insurance and the Freemans going to live with her; that defendant said she wanted Mr. Freeman and his children to live with her; that her daughter Lizzie had taken the children over to her house; that Lizzie was using all her influence to have Mr. Freeman come and live with her mother, and that Mrs. Melvin (Mr. Freeman's sister) was very anxious to have him live with her; defendant said that all Mrs. Melvin wanted was to get the insurance made over to her, but Mrs. Robinson said she had the best right to it, and it was her sister's request that it should be made over to her, and she wanted it; she requested her daughter Lizzie to use all her influence upon her uncle to go and live with the defendant, as Lizzie had a great deal of influence over him; that at the supper after the funeral at Mr. Freeman's house, the defendant had a conversation with him about the insurance; she was very anxious to have him come as soon as possible to her house to live, and he said that he would come just as soon as he could get the things at the house straightened out; defendant wanted to know if the insurance was made over to her; he said it was not, but should be; the defendant said that his mother and sister were anxious to have him come with them now that they saw he had an insurance, but before that they did not care anything about him; that the subject of insurance was afterwards quite frequently spoken of by the defendant, who said that she was afraid that Prince Arthur would not make the insurance over to her; that he was going over to his folks every Sunday, and she thought they had a good deal of influence over him, as he had changed considerably, and was not as pleasant at the house with her; that he went over to church every Sunday, and there met his folks and used to stay all day; defendant wanted him to have his little boy with him, so that she might ask the boy questions, that he might be able to tell her about things that happened while he was away; on the evening that Prince Arthur Freeman was taken sick, June 22, the defendant asked her to go over to Boston with Lizzie to the Governor Dudley Colony, and see if all the papers were right in case anything happened to Freeman, and whether she would get the insurance, and see that all assessments were paid up; and that Mrs. Robinson sent over to see about the insurance once or twice afterwards before the death of Prince Arthur; that the defendant requested her to step to the bedroom door and listen to a conversation that Dr. Nichols, the attending physician, was having with Prince Arthur; Dr. Nichols went to the bed and told Mr. Freeman that he was a very sick man, and asked, if in case anything should happen to him, what he wanted done with his child, and Mr. Freeman said he wanted the little boy to stay with Mrs. Robinson; that the defendant turned to her and said, "You hear that, Belle; I want to have it all right, so that when he dies I can keep the

child, because he says his folks all want to claim him now;" some time after the death of Prince Arthur the defendant said that the insurance was made over to her to take care of the child; that after she had paid all of Mr. Freeman's bills there was very little left for the boy; that defendant said she did not know what she was going to do, taking care of the boy, for there was nothing left for him, and she had him on her hands.

Florence A. Stanwood testified that she was collector of the Governor Dudley Colony of which Freeman was a member, and went over to her house the day before Freeman's death on account of a message left at her husband's store by Lizzie Robinson and Belle Clough; that Mr. Freeman was sick; that defendant said when Freeman was taken sick he had but fifty cents to his name; that they were in very poor circumstances, and that she often had taken money that should have supplied food for her table to keep up his assessments and dues; that there was a conversation about the insurance in the presence of the defendant and Mr. Freeman, and that they were informed by her (Mrs. Stanwood) that the papers were all right; after the interview in the presence of Mr. Freeman, the defendant went with her into the parlor, and there Mrs. Robinson requested her not to tell about the insurance to the Melvins; that defendant said that Mrs. Melvin was Mr. Freeman's sister, and that as soon as there was some money coming she would want to take care of the children for the sake of the money.

Charles F. Chandler testified that he was at the house of Mrs. Robinson on the evening that Prince Arthur was taken sick, and that defendant told him that she had sent Lizzie and Belle Clough over to see if Mr. Freeman's papers were all right, as she had had so much trouble about Moses', she didn't want any trouble about this.

William Foster testified that he was at Mrs. Robinson's on the day of Prince Arthur's death, in the afternoon, he having died about midnight; a conversation occurred between Foster and the defendant in the kitchen, in which he said to her, "It will make things pretty hard for you if you have to take care of that boy," and she said that was all right; that there was an insurance of two thousand dollars in the Colony of the Pilgrim Fathers, and that the insurance had been made over to her; that she would not have taken him if the insurance hadn't been made over to her; that defendant said after Freeman's death that probably Freeman's friends would want the insurance papers, but that she did not think they would find them, for they had been put away where she thought they would be unable to get them.

Mrs. Kate Y. Barker testified that she was present at Mrs. Freeman's during her last sickness while Mrs. Robinson was there, and that the defendant asked her if she didn't think the best place for Freeman and his children after Mrs. Freeman's death would be with her as she was the aunt; that defendant said that Mr. Barnes wanted the boy, but she thought it was not best to separate the children, but have the father and the children go with her, and she asked her if she had any influence with Mr. Freeman to use it to that effect. On cross-examination the witness said it seemed quite natural to her that the defendant should want the children, and that her plan was a good one.

Mrs. Catherine Melvin, sister of Mr. Freeman, testified that she didn't know the insurance had been assigned to Mrs. Robinson till after Prince Arthur's death; that after Thomas Arthur Freeman's death she had a conversation with Mrs. Robinson about the insurance, in which she said to her, "Mrs. Robinson, is Dr. Nichols Arthur's guardian?" and she said, "What do you mean?" that she (Mrs. Melvin) said, "Why, you told my mother that some doctor was Arthur's guardian;" that the defendant said, "No one is Arthur's guardian but me;" she said she had adopted him, and it was not necessary to have any other guardian, and that the money was made over to her, and Arthur had nothing at all to do with it, it was hers; that there was but very little left of it after she had paid Prince Arthur's debts.

Mrs. Sarah Freeman, the mother of Prince Arthur, testified that she did not know of the insurance having been paid over to the defendant till the Thanksgiving after her son's death; about the Christmas following she had a conversation with the defendant, in which Mrs. Robinson told her that a doctor in Cambridge had been appointed his guardian, who was paying her interest at the rate of six per cent. per annum, payable semi-annually.

George A. Crawford testified that he was the pastor of Mrs. Freeman, and frequently saw her during her last sickness; that the defendant spoke to him repeatedly about the Freemans going to live with her; she expressed her fear that her sister would die, but it seemed to him it was only a natural apprehension; that he had several conversations with the defendant about Mr. Freeman and the children living with her in the event of Annie Freeman's death; that whether he began it or not he was unable to state, but that he certainly thought it was best under the circumstances; that they discussed the question of a place where they might live; that she said she had quite a family of her own, and it would be impossible for them to live in the two rooms with the two small side rooms that Mr. Freeman had; that he interested himself in trying to get a rent for them in South Boston, as Mr. Freeman's work was there, but that after a while they informed him that they had secured rooms in Cambridge.

Dr. Edward R. Cogswell, testified that he had known Mrs. Robinson about twenty-five years; that she had formerly been engaged in his mother's family; that in September, 1885, she told him she was about to receive two thousand dollars insurance money from the Order of the Pilgrim Fathers, payable in consequence of Mr. Freeman's death; and that she had seen the treasurer and that he had told her he would pay her in a check on the Pacific Bank at Lawrence, and she asked him if he would collect the check for her, which he did; she told him that she received the money by direction of Mr. Freeman, and that she was to take care of his child; that he told her she had better put the money into the savings bank, and advised her what savings banks to put the money into, and paid her the money in such form that she could do it, by giving her three checks, one for each bank; she afterwards told him that she had deposited the money in these banks, but she did not so deposit it; she afterwards told him that she invested the money in a mortgage in Chelsea; that he spent considerable time in endeavoring to find out about it, and that he could find no such

person as she said had borrowed the money, no such land as she said was mortgaged to secure it, and that he could not find any foundation for the story; she told him that she had loaned on the mortgage twelve or thirteen hundred dollars; this conversation was in the early summer of 1886. The defendant stated on the stand that she thought she told Dr. Coggs well that she had invested the insurance money in mortgages, and that it was not true.

The facts herein recited, with the foregoing testimony, were the only material evidence in support of said alleged scheme or intention, except the evidence of the cause of the death of Annie Freeman and of the defendant's connection with it, if this can be considered as evidence for this purpose.

At the request of the defendant the court excluded any evidence relating to the cause of the death of said Thomas Arthur Freeman, who died July 23, 1886, or the defendant's connection therewith; and the said testimony of the said witnesses was admitted subject to the defendant's objection to the admission of any testimony tending to establish the said scheme and intention, and subject to her general exception founded on that objection, but no special objection to its relevancy was taken, if it was competent to introduce testimony showing such scheme or intention in accordance with the ruling.

The government thereupon, after the said testimony of said witnesses had been received, offered evidence tending to prove the death of said Annie Freeman by arsenic, knowingly administered by the defendant.

The defendant objected to the admission of all such evidence on the ground that no evidence, and no sufficient evidence, had been offered in proof of the alleged scheme and intention of the defendant; and because no sufficient foundation had been laid for the introduction of any evidence relating to the cause of the death of said Annie Freeman, or the defendant's connection therewith; and because it was not competent, notwithstanding any evidence of said scheme or intention, to prove upon the trial of this indictment the cause of the death of said Annie Freeman or the defendant's connection therewith; but the court overruled the objection and admitted the evidence, the defendant excepting thereto.

The aforesaid claim and offer of proof of the alleged scheme and intention of the defendant, the arguments of counsel, and the aforesaid ruling of the court thereon, as also the said ruling excluding all evidence relating to the cause of the death of said Thomas Arthur Freeman, were all made in open court in the presence of the defendant, but in the absence of the jury.

The court ruled and instructed the jury, that upon a trial of a defendant for the commission of a crime, evidence that at another time he committed a similar crime could not be received or considered as tending to show that he committed the crime for which he was on trial, and that in this case, evidence tending to show that the defendant killed her sister Annie Freeman was not to be considered as indicating that she would be likely to kill Prince Arthur Freeman, and that all the evidence in relation to the death of Annie Freeman was only to be considered so far as it bore upon the question whether the defendant, at the time of the alleged murder of Prince Arthur Freeman, was actuated by the motive which was imputed to her by the

Commonwealth to obtain for her own use the life insurance money payable on the death of Prince Arthur Freeman.

The jury returned a verdict of guilty. The defendant being aggrieved by the said rulings and by the admission of the evidence objected to by her, as aforesaid, and having excepted thereto as aforesaid, now prays that her exceptions may be allowed.

By her Attorneys,

JOHN B. GOODRICH,
D. F. CRANE.

Filed Feb. 25, 1888.

March 3, 1888. Allowed.

W. A. FIELD,
MARCUS P. KNOWLTON,
Justices Supreme Judicial Court.

[COPY ANNEXED.]

COMMONWEALTH OF MASSACHUSETTS.

MIDDLESEX, to wit:

At the Superior Court, begun and holden at Cambridge, within and for the county of Middlesex, on the second Monday of February, in the year of our Lord one thousand eight hundred and eighty-seven.

The jurors for the Commonwealth of Massachusetts on their oath present that Sarah J. Robinson, late resident of Somerville, in the county of Middlesex and Commonwealth aforesaid, on the twentieth day of June, in the year of our Lord one thousand eight hundred and eighty-five, with force and arms at Cambridge, in the county aforesaid, in and upon one Prince Arthur Freeman feloniously, wilfully and of her malice aforethought did make an assault, and to him, the said Prince Arthur Freeman, did feloniously, wilfully and of her malice aforethought then and there give and administer, in some way and manner and by some means to the jurors aforesaid unknown, a certain large quantity, to wit, ten grains of a certain deadly poison called arsenic, she, the said Sarah J. Robinson, then and there well knowing the same to be a deadly poison, with the intent that the said Prince Arthur Freeman should then and there take and swallow down the same into his body, and that the said Prince Arthur Freeman the said arsenic, so given and administered as aforesaid, did then and there take and swallow into his body, the said Prince Arthur Freeman not then and there knowing the same to be a deadly poison; by means whereof the said Prince Arthur Freeman became mortally sick and distempered in his body, and the said Prince Arthur Freeman of the poison aforesaid, so by him taken and swallowed down as aforesaid, and of the sickness and distemper occasioned thereby, from the said twentieth day of June, in the year aforesaid, until the twenty-seventh day of said June, in the year aforesaid, at Cambridge aforesaid, in the county of Middlesex aforesaid, did languish, and languishing did live, on which said twenty-seventh day of June, in the year aforesaid, at Cambridge aforesaid, in the county of Middlesex aforesaid, the said Prince Arthur Freeman of the poison aforesaid, and of the sickness and distemper occasioned thereby, died. And so the jurors aforesaid, on their

oath aforesaid, do say that the said Sarah J. Robinson, in manner and form aforesaid, the said Princee Arthur Freeman feloniously, wilfully and of her malice aforethought, did poison, kill and murder, against the peace of the said Commonwealth and contrary to the form of the statute in such case made and provided.

MARCELLUS HOUGHTON,

Foreman of the Grand Jury.

WILLIAM B. STEVENS,

** District Attorney.*

The foregoing are true copies.

Attest,

Clerk.

The case came on to be heard at the March sitting of the Supreme Judicial Court for the Commonwealth for Suffolk and Middlesex counties, on the second day of April, 1888, and was argued by J. B. Goodrich, Esquire, for the defendant, and Attorney-General Waterman for the government. Following are copies of briefs submitted : —

COMMONWEALTH v. SARAH J. ROBINSON.

DEFENDANT'S BRIEF.

1. This court has settled, in *Commonwealth v. Jackson*, 132 Mass. 16, that the proof of distinct offences, at different times, against different persons, although similar, cannot, except under very special circumstances, be introduced for the purpose of proving either the commission of the offence charged, or the knowledge or intent with which it was committed. Such evidence compels the defendant to meet charges of which the indictment gives him no information, confuses him in his defence, raises a variety of issues, diverts the attention of the jury from the main issue, and has an inevitable effect upon the minds of the jury against the defendant, beyond the limited purpose for which it is admitted. Hence, exceptions to the rule are not favored and ought not to be extended.

2. An exception to this general rule is applied, of necessity, in cases where the act charged is not significant of the intent, as in cases of embezzlement and of passing counterfeit money, and does not apply to cases of homicide, where the intent is inferable from the act (*Commonwealth v. Hersey*, 2 Allen, 173), unless to meet some special defence of accident or mistake. (Wharton's *Crim. Ev.*, 8 Ed. 49 *et seq.*; 1 Chitty on *Ev.*, 2 Ed. 564.) In the indictment in this case there is no allegation of intent to kill, and none was necessary.

3. The case of *Reg. v. Geering*, 18 L. J., M. C. 215, extending this exception to a case of homicide where no defence of accident was set up, was a decision by a single judge at the Old Bailey, a tribunal referred to by this court in 21 Pickering, 520, as "more remarkable for its promptitude than its deliberation in such trials." Late English cases have refused to follow it. (*Reg. v. Winslow*, 8 Cox, C. C. 397; *Reg. v. Hall*, Supreme Court of

New Zealand, L. Q. Review, Jan. 1888, 71.) The case was not reserved and is not recognized as authority.

4. Another exception to the general rule is found in that class of cases where acts are shown to have been done in pursuance and as part of some plan or scheme, to accomplish a particular result. In such cases all the acts shown must appear to be one transaction, of which the act alleged in the indictment is a part. The acts must be shown to be connected by unity of plan and motive, and there must be an open and visible connection between the principal and evidentiary fact.

Wharton's Crim. Ev. *supra*.

Best on Ev. §§ 38, 90.

Jordan v. Osgood, 109 Mass. 457.

Farrar v. State, 2 Ohio St. 54.

Reg. v. Hall, *supra*.

Commonwealth v. Jackson, 132 Mass. 16.

Reg. v. Oddy, 5 Cox, C. C. 210.

Commonwealth v. Abbott, 130 Mass. 472.

United States v. Ross, 92 U. S. 280, 284.

Douglass v. Mitchell, 35 Pa. St. 440, 446.

Commonwealth v. Shaffner, 72 Pa. 60.

Commonwealth v. Sherman, Wharton's Cr. Ev., 8 Ed., § 50, note.

People v. Sharp, 37 Alb. L. J. 69.

State v. Lapage, 57 N. H. 245.

5. But in such cases preliminary evidence must always be given to show that the two crimes are parts of one transaction. It is the exclusive province of the trial judges to decide all preliminary questions of fact, however intricate, the solution of which may be necessary to enable the court to determine the other question of admissibility.

Gorton v. Hadsell, 9 Cushing, 508.

1 Philip on Ev. (N. Y. Ed. 1849), part 1, C. 1.

Commonwealth v. Shaffner, *supra*.

Dunn v. State, 2 Ark. 228.

6. The finding of the trial judges, upon the preliminary evidence, is subject to revision whenever a bill of exceptions has been allowed in which (as in this case) the full evidence is reported.

Foster v. McKay, 7 Metcalf, 531, 538.

Dole v. Thurlow, 12 Met. 157.

Bartlett v. Smith, 11 Mees & Wells. 483.

Commonwealth v. Sturtevant, 117, 122.

Quinsigamund Bank v. Hobbs, 11 Gray, 250.

Gosler v. Eagle Sugar Refinery, 103 Mass. 331.

Commonwealth v. Salmon, 136 Mass. 431.

Commonwealth v. Campbell, 7 Allen, 541.

Campbell v. Russell, 139 Mass. 278.

Chase v. Breed, 5 Gray, 440.

Baxter v. Abbott, 7 Gray, 71.

Hatch v. Carpenter, 9 Gray, 271.

7. Whether different acts are so connected together that they may be properly deemed to form a part of one and the same transaction, being a question of fact, proof of such fact is required before the same can be used as a foundation for other evidence. That there is some evidence of such connection is not sufficient; it must amount to proof.

Commonwealth v. Campbell, 7 Allen, 541.

Shaffner v. Commonwealth, *supra.*

Reg. v. Hall, *supra.*

8. The ruling made by the trial court, and printed on page 3 of the bill of exceptions (p. 438), does not expressly affirm the necessity of this proof. If in the opinion of the court it is implied by the ruling, the defendant's exception thereto is waived. Unless the plan or scheme alleged, involving the two murders, was a proved fact, evidence of the first murder was clearly inadmissible. The decision of the court that it was a proved fact properly prevented the jury from considering the plan or scheme as unproved, and the charge allowed them, and properly so, to consider the evidence in relation to the death of Annie Freeman without reference to such plan or scheme. In other words, the alleged plan or scheme was a fact found by the court and to be accepted by the jury.

9. The alleged plan or scheme is so unreasonable and unnatural as to require strong proof for establishment. Prior to the death of Annie Freeman, she lived with her husband, Prince Arthur Freeman, in South Boston. The defendant lived in Cambridge. Presumably, and so far as appears, there was no intimacy between the two families except what might be expected from their relationship. It does not appear that the defendant sought her sister, or visited her finally until after her illness began. There is no evidence that the defendant knew anything about any insurance until her sister was moribund, or that before her sister's death she had any knowledge that the same could be assigned to her. The death of her sister would give the defendant no right or claim to the insurance or facilitate any right or claim thereto. That the husband would afterwards settle his insurance possibilities upon her she had no reason or inducement to expect. His young children would be the natural objects of his provision and care. This was apparently recognized by the proposed inclusion in the scheme of the murder of the boy, Thomas Arthur. The insurance certificate had no certain value at best, being but an incident of membership in a social organization, not distinctively an insurance company. So far from having any reason to rely upon opportunity for influence upon Prince Arthur Freeman, the evidence shows that she must have regarded such opportunity as very doubtful. Under these circumstances, and in view of the ulterior effect upon the jury of evidence relating to the death of Mrs. Freeman, and in view of the simpler and more apparent motive for the killing alleged in the indictment, afforded by the facts arising after the death of Mrs. Freeman, the purpose for which the evidence of the alleged scheme was offered may well be distrusted as colorable, and such evidence should be received with caution. (See opinion of Thurman, J., *Farrar v. State*, 2 Ohio St. 54, and *People v. Sharp*, 37 Alb. L. J. 69.)

10. Coming to a review of the evidence offered in support of the alleged scheme, we find nothing in the testimony of Florence A. Stanwood, Charles F. Chandler, William Foster, Catherine Melvin, Sarah Freeman and Edward R. Cogswell tending in any degree to refer the origin or existence of any motive to kill Prince Arthur Freeman back to a time prior to the death of Annie Freeman, or to show any connection between the two, on the point of motive. All their evidence is confined to a state of things existing at the time of the last sickness of Prince Arthur Freeman, or a time subsequent thereto, and in no particular suggests the early origin of the motive to kill him, required to establish the alleged scheme.

11. The testimony of Susan S. Marshall is to the point that in 1882 the defendant knew that Prince Arthur Freeman had joined the Order of Pilgrim Fathers, and that the defendant shortly before the death of Annie Freeman expressed the opinion that she would not live,—an opinion justified by the concurrent opinion of the witness, and leaving the witness quite as liable to suspicion as the defendant, so far as this expression was concerned. In any view, it could have no bearing upon the question of motive, and only, if at all, upon the cause of death. That the defendant requested the witness, after Mrs. Freeman's death, to advise Mr. Freeman to take his children and come to live with her, indicates nothing but natural solicitude for the welfare of her sister's children, and has no tendency to show the existence of the alleged scheme.

12. The testimony of Mary J. Wright is to the effect that the defendant expressed the opinion that Mrs. Freeman would not recover, and that she was impressed to this belief by a terrible dream; and that the defendant requested her to use her influence with Mr. Freeman to come with the children to live with her. All this, however, was apparently after the recovery of Mrs. Freeman was hopeless, and was perfectly natural under the circumstances, and referable in part, as above, to the cause of the death of Annie Freeman only, and lends no support to the alleged scheme.

13. Mary L. Moore testifies that the defendant did not seem to think her sister would recover, and desired her to use her influence with Mr. Freeman to come and live with her after Annie's death, and that she did not want Mr. Freeman and the children to go and live with his relatives. The witness seems to have agreed with the defendant that Mrs. Freeman was not likely to recover, and declares that the defendant appeared to be truly anxious and solicitous about Mrs. Freeman's condition, and that the defendant spoke of the disposition to be made of the children and of the family just as any one would. The witness testifies that she learned from the defendant that Prince Arthur's life was insured, and that it was in her sister's name. This fact does not appear to have been mentioned in any connection which gives it any significance beyond the defendant's mere knowledge of the fact. There seems to be nothing in the testimony of this witness of any value in support of the alleged scheme.

14. Kate Y. Barker testifies that the defendant asked her if she did not think the best place for Freeman and the children would be with her, as she was the aunt, and asked her if she had any influence with Mr. Freeman to use it to that effect. The witness thought that her plan was a good one, and that it was quite natural that she should want the children.

15. George A. Crawford testifies that he was the pastor of Mrs. Freeman, and that the defendant expressed to him her fear that her sister would die, but it seemed to him that it was only a natural apprehension; that he had conversations with the defendant about Mr. Freeman and the children living with her in the event of Annie Freeman's death, and that he certainly thought it best under the circumstances. As pastor of Mrs. Freeman, his opinion of the best disposition to be made of the family is important, and indicates the naturalness and innocence of her conduct in this particular.

16. The only remaining testimony is that of Belle M. Clough. Her first conversation with the defendant, about the insurance and Freeman's going to live with her, occurred after the death of Mrs. Freeman. Neither this conversation, nor any subsequent conversation, nor any facts testified to by this witness are necessarily or naturally referable to, connected with, or relate to any motive or intention or plan, existing in the mind of the defendant, prior to the fatal illness of Mrs. Freeman. It appears by her testimony that at the time when Prince Arthur Freeman was taken fatally sick the defendant was uncertain whether the insurance had been assigned to her, and although the witness, before the death of Prince Arthur, had conversations with the defendant respecting the insurance, the defendant did not appear to have any knowledge that the insurance had been made over to her, if such was the case, and expressed her fear that it would not be. The statement by the witness as to the conversation at Freeman's house, at supper, after the funeral, is, under the circumstances of the situation, incredible and cannot be allowed any weight.

17. It is submitted that this evidence does not constitute proof of the alleged plan or scheme. The facts testified to are not indicative of guilt, and are all entirely consistent with innocence, so far as the cause of the death of Annie Freeman is concerned. The facts relied on in support of the scheme have a much stronger tendency to support other hypotheses. That the defendant did kill Annie Freeman and Prince Arthur Freeman, pursuant to the plan alleged, may be true and it may not be true. If the defendant did kill her sister, she may have killed her pursuant to hatred or spite, or a desire to marry her husband, or to get rid of her as a witness, or for any number of other reasons.

18. The evidence leaves the alleged scheme a mere conjectural hypothesis, and not the proved fact which the law requires as the foundation for the introduction of evidence of an independent crime.

J. B. GOODRICH,
D. F. CRANE,
For Defendant.

COMMONWEALTH v. SARAH J. ROBINSON.

BRIEF FOR THE COMMONWEALTH.

This was an indictment for the murder of Prince Arthur Freeman by poisoning. He died June 27, 1885, at the defendant's house in Cambridge. Annie Freeman was his wife, and also sister of the defendant. Prince Arthur lived in South Boston in February, 1885, and had two children living with them, Thomas A. and Elizabeth. About the 10th of February, 1885, Annie Freeman was taken sick at her house in South Boston. Her sister, the defendant, visited her for the first time during her sickness on the 20th of February, staying a short time. On the 23d she again visited her and remained with her during the remainder of her sickness and until her death, taking care of her. On the 26th she died.

Immediately after Annie's death, Prince Arthur and the two children went to live with the defendant at Cambridge. The child Elizabeth died there in April, 1885. Prince Arthur Freeman died there on the 27th of June, 1885, after six days' illness. Thomas Arthur died there July 23, 1886.

In 1882 Prince Arthur became a member of the Governor Dudley Colony of the United Order of Pilgrim Fathers, and was insured therein for the sum of two thousand dollars, from that time to the time of his death, and Annie, his wife, was the beneficiary first named in the certificate of insurance. About the 13th of May, 1885, Prince Arthur Freeman appointed the defendant, in writing, as beneficiary under the certificate, in the place of Annie Freeman, deceased, said appointment being recorded by the Colony about the 23d of June, 1885. On Sept. 23, 1885, the defendant received from the Colony two thousand dollars on that certificate.

Prior to 1885 the defendant owed money to different parties to the amount of six or seven hundred dollars, which she was unable to pay, and for which she was hard pressed by her creditors, and which indebtedness she paid out of said insurance money immediately after receiving it.

The government claimed and offered evidence to prove that prior to the death of Annie Freeman the defendant had formed the scheme and intention of securing to her own use the two thousand dollars named in the certificate of insurance issued upon the life of Prince Arthur Freeman for the benefit of said Annie Freeman, and, as a means of accomplishing this result, and as a part of said scheme, then determined to first kill said Annie, then to induce the said Arthur Freeman to assign to her, the defendant, all benefits under said certificate, and then to kill the said Prince Arthur Freeman, and the boy, Thomas Arthur Freeman. This evidence was offered for the sole purpose of establishing the defendant's motive in killing Prince Arthur Freeman.

Upon this point the court ruled, in substance:—

I. If evidence, direct or circumstantial, is offered and admitted, tending to show that this defendant knew, before her sister's death, of the existence of the insurance, and

II. That it could be transferred, on the death of her sister, to herself, and made payable to herself on the death of her brother-in-law, and

III. That she, before her sister's death, had formed in her own mind a plan, or intention, to obtain this insurance for her own benefit, and this plan, or intention, continued to exist and be operative up to the time of the death of her brother-in-law; then

That evidence was competent to prove, as a part of the scheme, that the sister died of poison and that the defendant administered it. In this connection the court excluded all evidence relating to the cause of the death of the boy, Thomas Arthur Freeman, or of the defendant's connection therewith; and the court indicated that evidence of this knowledge and plan, or intention, should first be offered that the court might judge whether it was sufficient to warrant the introduction of evidence that the sister died of poison, administered by the defendant.

To this ruling the defendant excepted.

The following evidence was introduced to prove such scheme and intention, and to establish the motive of the defendant in killing Prince Arthur Freeman, and admitted, to wit:—

I. As to the defendant's knowledge of the insurance.

Susan S. Marshall testified (page 439) that defendant remarked to her about 1882, that Prince Arthur was insured or joined the "Order."

Mary L. Moore testified (page 439) that during Mrs. Freeman's sickness the defendant said "that Prince Arthur's life was insured in her sister's name."

Belle M. Clough testified (page 440) that she attended Mrs. Freeman's funeral; that on the way from the cemetery, in the carriage with the defendant, the defendant talked about the insurance, and said (page 440), "All Mrs. Melvin wanted was to get the insurance," etc., and that she (Mrs. Robinson) "had the best right to it, and it was her sister's request that it should be made over to her, and she wanted it." And after the funeral, at the supper-table, at Prince Arthur's house, the defendant talked with him about the insurance and "wanted to know if the insurance was made over to her; and he said it was not but should be"; and that "the subject of insurance was afterwards quite frequently spoken of by the defendant," and she said she was afraid that Prince Arthur would not make it over to her; and that, on June 22d, the day that Prince Arthur was taken sick, the defendant asked the witness to go with Lizzie (the daughter of the defendant) to the insurance Colony at Boston to see if the papers were right, "in case anything happened to Freeman, and whether she would get the insurance, and see that all assessments were paid up," and she "sent over to see about the insurance once or twice afterwards, before the death of Prince Arthur"; and that some time after the death of Prince Arthur (page 441) "the defendant said that the insurance was made over to her to take care of the child" (meaning little Thomas Arthur).

Florence A. Stanwood testified (page 441) that the day before Prince Arthur's death, she, as secretary of the Colony, was at the defendant's house and talked with her and Prince Arthur about the insurance, and that the defendant requested her (page 441) "not to tell about the insurance to Melvin."

Charles F. Chandler testified (page 441) that, at the defendant's house on the evening that Prince Arthur was taken sick, the defendant told him that she (page 441) had sent Lizzie and Belle Clough over (meaning to the Colony at Boston) "to see if Mr. Freeman's papers were all right."

William Foster testified (page 441) that, at the defendant's house in the afternoon of the day of Prince Arthur's death, the defendant said "that there was an insurance of two thousand dollars in the Colony of the Pilgrim Fathers, and that the insurance had been made over to her; that she would not have taken him if the insurance hadn't been made over to her;" and that, after his death, she said that "probably his friends would want the insurance papers, but that she did not think they would find them for they had been put away where she thought they would be unable to get them."

Catherine Melvin testified (page 442) that after Thomas Arthur's death (July 23, 1886) she had a conversation with Mrs. Robinson about the insurance, and that Mrs. Robinson said (page 442) "that the money was made over to her."

Dr. Edward R. Cogswell testified (page 442) that "in September, 1885, she told him she was about to receive two thousand dollars insurance money from the Order of the Pilgrim Fathers, payable in consequence of Mr. Freeman's death" (page 442); also, "she told him that she received the money by direction of Mr. Freeman," and "that she invested the insurance money in mortgages, and that it was not true."

II. As to her knowledge that the insurance could be transferred on the death of her sister to herself, and made payable to herself on the death of Prince Arthur Freeman.

Belle Clough testified (page 440), "defendant said that all Mrs. Melvin wanted was to get the insurance made over to her, but Mrs. Robinson said she had the best right to it, and it was her sister's request that it should be made over to her, and she wanted it." . . . "Defendant wanted to know [talking to Freeman] if the insurance was made over to her; he said it was not, but should be." . . . "She said she was afraid Prince Arthur would not make the insurance over to her." . . . And, "on the evening that Prince Arthur Freeman was taken sick, June 22, the defendant asked her [the witness] to go over to Boston with Lizzie to the Governor Dudley Colony, and see if all the papers were right, in case anything happened to Freeman, and whether she could get the insurance, and see that all assessments were paid up; and that Mrs. Robinson sent over to see about the insurance once or twice afterwards before the death of Prince Arthur"; and (page 441), "some time after the death of Prince Arthur the defendant said that the insurance was made over to her."

Charles F. Chandler testified (page 441) that the defendant (page 441) told him that she had sent Lizzie and Belle Clough over (to the Colony in Boston) "to see if Freeman's papers were all right, as she had had so much trouble about Moses' [insurance] she didn't want any trouble about this."

Florence A. Stanwood testified (page 441) "that she was collector of the Governor Dudley Colony, of which Freeman was a member, and went over to her house the day before Freeman's death, on account of a message left at her [the witness] husband's store by Lizzie Robinson and Belle Clough," . . . and defendant said "that she often had taken money that should have

supplied food for her table to keep up his assessments and dues," . . . and that there was a conversation about the insurance, and the defendant and Freeman were then by the witness "informed . . . that the papers were all right," and that "Mrs. Robinson requested her not to tell about the insurance to Melvin."

Mrs. Catherine Melvin testified (page 442) that she had conversation with the defendant about the insurance, and (page 442) "that the money was made over to her."

Dr. Edward R. Coggswell testified (page 442) that she, defendant, in September, 1885, told him she was about to receive two thousand dollars insurance money from the Order, payable in consequence of Freeman's death, and that she received the money.

III. As to the defendant's forming in her mind, before her sister's death, a plan, or intention, to obtain the insurance for her own benefit, and that this plan continued to exist and be operative up to the time of the death of Prince Arthur Freeman (the brother-in-law).

Susan S. Marshall testified (page 439) that the defendant told her, in 1882, of the insurance, and during the sickness of Mrs. Freeman expressed the opinion she would not live; and immediately after her death requested the witness to use her influence with Mr. Freeman to take his children to come and live with the defendant.

Mary J. Wright testified (page 439) that the defendant frequently said she was satisfied that her sister would not recover; that she had had a terrible dream, and knew her sister would never get well; that one of the family always died whenever she had such a dream; that Mrs. Freeman seemed to be getting better when the defendant came there, and all of a sudden she seemed to sink fast; and that then she talked with the witness to get her to use her influence to get Freeman, with the children, to go and live with the defendant after Mrs. Freeman's death; that she went into her sister's room awhile and came out and said she had fixed it all right, and any little rings and things of her sister's she had had distributed, so that there would be no trouble if anything happened to her sister (meaning death) (page 439), and expressed her opinion to various persons that her sister would not recover.

Wharton on Homicide, § 692.

Mary L. Moore testified (page 439) that the defendant did not seem to think her sister would recover, and wanted the witness to use her influence with Prince Arthur Freeman to come and live with her after her sister's death; that his life was insured in her sister's name.

Belle M. Clough testified (page 410) to conversation on the way home from the funeral with the defendant, and to the defendant's wanting Freeman and the children to come and live with her, and (page 440) expressed anxiety about the insurance, and wanted to have Freeman come as soon as possible, and requested the witness to go over to Boston with Lizzie to the 'Colony and see a'out the insurance papers being all right, so that "in case anything happened to Freeman [meaning if he died] whether she would get the insurance," and see to all assessments being paid, and she sent over once or twice more before Freeman's death; and (page 440) she wanted the witness to listen to the talk between Prince Arthur on his sick-bed and Dr.

Nichols, and expressed great anxiety about the insurance and its being made over to her.

Florence A. Stanwood testified (page 441) to being called to, and having a conversation with the defendant at the defendant's house, and the defendant was anxious about the insurance and said she had kept up the assessments, and requested the witness not to tell about the insurance to Melvin, etc.

William Foster testified (page 441) that the defendant told him, the afternoon before Freeman died, that there was an insurance of two thousand dollars on Freeman's life, and that it had been made over to her, and that Freeman's friends would want the insurance papers, but they had been put away and they would be unable to get them.

Kate Y. Barker testified (page 441) that the defendant, during Mrs. Freeman's sickness, expressed to her a great desire to have Freeman and the children go and live with the defendant at the death of her sister.

Catherine Melvin testified (page 442) that she told the defendant that she told the witness' mother "that some docter was Arthur's guardian," and defendant said, "No one is Arthur's guardian but me"; "and the money was made over to her, and Arthur had nothing at all to do with it; it was hers."

Sarah Freeman testified (page 442) that the defendant told her that a doctor in Cambridge had been appointed guardian of Thomas Arthur, etc.

George A. Crawford testified (page 442) that the defendant, during her sister's sickness, talked about Freeman's going to live with her, and expressed her fears that her sister would die, etc.

Dr. Edward R. Coggswell testified (page 442) that the defendant talked about the two thousand dollars insurance money, and that she was going to have it from the Order of the Pilgrim Fathers, and that it was payable in consequence of Freeman's death, and that she told him falsely about the use of the money.

The rulings of the court were correct.

The evidence tending to show a motive, plan or scheme was clearly competent, and was rightfully admitted. Where the intent of the accused forms any part of the matter in issue, evidence to prove a plan or scheme may be given of acts not in issue, if they tend to establish the intent imputed to the defendant in the crime charged in the indictment. Evidence of the cause and manner of the death of Annie Freeman was proper to show the defendant's motive as a part of the whole plan or scheme.

The evidence introduced and admitted clearly showed a sufficient motive for the commission of the crime.

Commonwealth v. Merriam, 14 Pick. 518.

Commonwealth v. Turner, 3 Met. 19, 23, 24.

Commonwealth v. Stone, 4 Met. 43, 47.

Commonwealth v. Stearns, Jr., 10 Met. 256, 257.

Commonwealth v. Eastman, 1 Cushing, 189, 216.

Commonwealth v. Miller, 3 Cushing, 243, 250.

Commonwealth v. Tuckerman, 10 Gray, 173, 197, 200.

Commonwealth v. Preece, 10 Gray, 472, 476.

Commonwealth v. Shepard, 1 Allen, 575.

- Jordan v. Osgood*, 109 Mass. 457, 461.
Commonwealth v. Coe, 115 Mass. 481, 501.
Commonwealth v. Bradford, 126 Mass. 42.
Commonwealth v. Jackson, 132 Mass. 16, 18, 19.
Commonwealth v. McCarthy, 119 Mass. 354.
Commonwealth v. Blood, 141 Mass. 571, 575.
Commonwealth v. Scott, 123 Mass. 222, 234.
Commonwealth v. Sturtevant, 117 Mass. 122.
Commonwealth v. White, 145 Mass. (Part III.) 392, 395.
People v. Wood, 3 Parker's Crim. Reports, 681.
Goerson v. Commonwealth, 99 Pa. St. 338.
Swan v. Commonwealth, 104 Pa. St. 220.
Bottomly v. United States, 1 Story, 143.
Rose Crim. Evidence, § 88.
1 Archb. Crim. Pleading, pp. 392; vol. I., 475, 619.
Best's Evidence, p. 487.
1 *Greenleaf Evidence*, § 53.
Rex v. Whiley et al., 2 Leach, 983, 985.
Regina v. Richardson, 2 Foster & Final. 345.
Rex v. Ellis, 6 B. & C. 145.
Wharton on Homicide, §§ 725, 726, Presumptions.
Wharton on Homicide, § 731 and notes, } Inferences in Poison-
3 *Greenleaf Evidence*, § 135, } ing Cases.
Wharton on Homicide, §§ 599, 736, 737, As to *other* Poisonings.
Wharton on Homicide, § 692, } Preparations by having dreams,
1 *Stakie Evidence*, 565, etc., } etc.
State v. Nugent, 71 Mo. 136.
Reg. v. Geering, 18 L. J. M. C. 215.
Reg. v. Cotton, 12 Cox, 400.
Reg. v. Flannagan, 15 Cox, 404.
Coleman v. People, 58 N. Y. 555.
People v. Corbin, 56 N. Y. 363.
People v. Marion, 29 Mich. 31.
Commonwealth v. Ferrigan, 44 Pa. St. 386.
Castle v. Bullard, 23 How. 172, 186.
State v. Zellars, 2 Halst. N. J. Law, 220.
People v. Hendrickson, 1 Parker Crim. R. 406.
State v. Watkins, 9 Conn. 47.
State v. Ford, 3 Strob. (S. C.) 517.
People v. Greenwell, 11 Cent. Rep. (1887) 87.
See *State v. Lapage*, 57 N. H. 245.

It does not render such evidence inadmissible because the facts which proved the plan or scheme tended to prove that the defendant was guilty of a crime other than the one for which she was being tried.

- Wills on Circumstantial Evidence*, p. 47.
Commonwealth v. Choate, 105 Mass. 451, 458.
Commonwealth v. Scott, 123 Mass. 222, 235.
Commonwealth v. Blood, 141 Mass. 571, 575.

The rulings and charge of the court (p. 443), "that all of the evidence in relation to the death of Amie Freeman was only to be considered so far as it bore upon the question whether the defendant, at the time of the alleged murder of Prince Arthur Freeman, was actuated by the motive which was imputed to her by the Commonwealth, to obtain for her own use the life insurance money payable on the death of Prince Arthur Freeman," fully protected the defendant against harm from the admissibility of evidence of the cause of Mrs. Freeman's death.

Respectfully submitted by

ANDREW J. WATERMAN,
Attorney-General.

On the third day of May, 1888, the court rendered a decision as follows:—

C. ALLEN, J., delivered the opinion of the court:

We have given to this case a degree of attention commensurate with its importance, and have come to the conclusion that there was no error in the conduct of the trial.

While it is well settled in this Commonwealth that, on the trial of an indictment, the government cannot be allowed to prove other independent crimes for the purpose of showing that the defendant is wicked enough to commit the crime on trial, this rule does not extend so far as to exclude evidence of acts or crimes which are shown to have been committed as part of, or in pursuance of, the same common purpose.

Commonwealth v. Jackson, 132 Mass. 16, 18.

Commonwealth v. Blood, 2 New Eng. Rep. 393; 141 Mass. 575.

In such cases there is a distinct and significant probative effect resulting from the continuance of the same plan or scheme, and from the doing of other acts in pursuance thereof. It is somewhat of the nature of threats or declarations of intention, but more especially of preparations for the commission of the crime which is the subject of the indictment. If, for example, it could be shown that a defendant had formed a settled purpose to obtain certain property, which could only be got by doing several preliminary things, the last of which in the order of time was criminal, the government might show on his trial for the commission of that last criminal act that he had formed the purpose to accomplish the result of obtaining the property, and that he had done all of the preliminary things which were necessary to that end. This would be quite plain if the evidence of the purpose were direct and clear; as, if a letter in the defendant's handwriting should be discovered, stating in terms, to a confederate, his purpose to obtain the property by the doing of the several successive acts, the last of which was the criminal act on trial. In such case no one would question that proof might be offered that the defendant had done all the preliminary acts referred to which were necessary steps in the accomplishment of his purpose. But such purpose may also be shown by circumstantial evidence. It is, indeed, usually the case that intentions, plans, purposes can only be shown in this way. Express declarations of intention, or confessions,

are comparatively rare; and therefore all the circumstances of the defendant's situation, conduct, speech, silence, motives, may be considered. The plan itself, and the acts done in pursuance of it, may all be proved by circumstantial evidence, if they are of themselves relevant and material to the case on trial. And in such a case it makes no difference whether the preliminary acts are criminal or not,—otherwise the greater the criminal, the greater his immunity. Such preliminary acts are not competent because they are criminal, but because they are relevant to the issue on trial; and the fact that they are criminal does not render them irrelevant. Suppose, for further example, one is charged with breaking a bank, and there is evidence that he had made preliminary examinations from a neighboring room; the fact that his occupation of such room was accomplished by a criminal breaking and entering would not render the evidence incompetent. It is sometimes said that such evidence may be introduced where the several crimes form part of one entire transaction; but it is perhaps better to say, where they have some connection with each other as a part of the same plan, or induced by the same motive. Precedent acts which render the commission of the crime charged more easy, more safe, more certain, more effective to produce the ultimate result which formed the general motive and inducement, if done with that intention and purpose, have such a connection with the crime charged as to be admissible, though they are also of themselves criminal.

We do not understand that this general view, stated thus, is distinctly controverted by the counsel for the prisoner, and it is supported by a great number of decisions, only a few of which are here cited.

Commonwealth v. Scott, 123 Mass. 222.

Commonwealth v. Choate, 105 Mass. 451.

Swan v. Commonwealth, 104 Pa. St. 218.

Goerson v. Commonwealth, 99 Pa. St. 388.

Shaffner v. Commonwealth, 72 Pa. St. 60.

Mayer v. People, 80 N. Y. 364, 375.

See also *Jordan v. Osgood*, 109 Mass. 457.

For cases where such connection was not shown, but where the principle was recognized, see *Commonwealth v. Jackson*, 132 Mass. 16; *State v. Lapage*, 57 N. H. 245, 295; *People v. Sharp* (per Peckham, J.), 107 N. Y. 427, 466. The ruling at the trial, therefore, was correct, that, if evidence should be offered and admitted tending to show that the prisoner knew, before her sister's death, of the existence of the insurance, and that it could be transferred on the death of her sister to herself, and made payable to herself on the death of Freeman; and that, before her sister's death, she had formed a plan or intention to obtain this insurance for her own benefit; and this plan or intention continued to exist or be operative up to the time of Freeman's death,—then that evidence might be offered to show that her sister died of poison, and that the prisoner administered it as a part of the method employed by her to carry this plan or intention into effect, in connection with evidence that she administered poison to Freeman as another part of the same plan, and with the same general intention.

The court therefore properly held that evidence of this knowledge and

plan or intention on the part of the prisoner should first be offered, that the court might judge whether it was sufficient to warrant the introduction of evidence that the sister died of poison administered by the prisoner. This claim and offer of proof, on the part of the government, and the arguments of counsel, and the said ruling of the court thereon, were all made in open court, in the prisoner's presence, but in the absence of the jury. The government accordingly proceeded to introduce, with its other evidence to the jury, certain testimony in support of said alleged scheme or intention on the part of the prisoner, which is recited in the bill of exceptions; and, after said testimony had been received, it offered evidence tending to prove the death of the prisoner's sister by arsenic knowingly administered by the prisoner. This evidence was objected to, on the ground that no sufficient evidence had been offered in proof of said alleged scheme or intention, and on other grounds; but the court overruled the objection, and admitted the evidence, subject to the prisoner's exception.

In seeking a new trial on account of the admission of this testimony, the argument of the prisoner's counsel, briefly stated, is as follows: Preliminary evidence must be given to show that the acts offered to be proved were done in pursuance and as a part of some plan or scheme to accomplish the particular result; it is the exclusive province of the court to determine if such evidence is sufficient; the decision of the court, admitting the evidence, is subject to revision in the present case, the testimony upon which that decision was founded having been reported for the purpose; it is not enough that there was some evidence, but the preliminary evidence must amount to proof; the ruling of the court did not expressly affirm the necessity of such proof,—that is, as we understand the argument, the necessity of such amount or degree of proof; and, finally, this court, upon a revision of the preliminary evidence reported, should now hold that it was not sufficient to warrant the introduction of evidence to show that the prisoner poisoned her sister, Mrs. Freeman. The last three of these propositions are the only ones which need any further attention. A consideration of the nature of the question which is presented to the court when it is called upon to decide upon a preliminary question of fact, in order to determine whether offered evidence shall be received, will show that its determination reaches no further than merely to decide whether the evidence may or may not go to the jury. The decision upon this particular question of the admissibility of the evidence is ordinarily conclusive, unless the judge sees fit to reserve or report the question for future revision.

Dole v. Thurlow, 12 Met. 157.

Gorton v. Hadsell, 9 Cush. 508, 511.

O'Connor v. Hallinan, 103 Mass. 547.

Walker v. Curtis, 116 Mass. 98.

And in this respect the rule is the same in criminal cases.

Commonwealth v. Hills, 10 Cush. 530.

Commonwealth v. Mullins, 2 Allen 295.

Commonwealth v. Morrell, 99 Mass. 542.

Commonwealth v. Culver, 126 Mass. 464.

Commonwealth v. Gray, 129 Mass. 474.

But where, in a case like the present, the admissibility of testimony depends upon the determination of some prior fact by the court, there is no rule of law that, in order to render the testimony admissible, such prior fact must be established by a weight of evidence which will amount to a demonstration, and shut out all doubt or question of its existence. It is only necessary that there should be so much evidence as to make it proper to submit the whole evidence to the jury. The fact of the admission of the evidence by the judge does not, in a legal sense, give it any greater weight with the jury; it does not affect the burden of proof, or change the duty of the jury in weighing the whole evidence. They must still be satisfied, in a criminal case, upon the whole evidence, beyond a reasonable doubt. Ordinarily, questions of fact are exclusively for the jury, and questions of law for the court. But when, in order to pass upon the admissibility of evidence, the determination of a preliminary question of fact is necessary, the court, in the due and orderly course of the trial, must necessarily determine it as far as is necessary for that purpose, and usually without the assistance, at that stage, of the jury. If, under such circumstances, testimony is admitted against a party's objection, it may often happen that he may still ask the jury to disregard it.

Numerous illustrations of the foregoing view might be given, but a few must suffice us. In an indictment for murder, where the question was as to the admissibility of certain statements in the nature of confessions, which were objected to as having been obtained by means of inducements, it was held by this court as follows: "When a confession is offered in a criminal case, and the defendant objects that he was induced to make it by threats or promises, it necessarily devolves upon the court to determine the preliminary question whether such inducements are shown. . . . If the presiding judge is satisfied that there were such inducements, the confession is to be rejected; if he is not satisfied, the evidence is admitted. But if there is any conflict of testimony, or room for doubt, the court will submit the question to the jury, with instructions that, if they are satisfied that there were such inducements, they shall disregard and reject the confession.

Commonwealth v. Piper, 120 Mass. 185, 188.

Similar questions arise when it is objected that a witness is not of sufficient capacity to testify intelligently; or that a third person, whose declarations or acts are offered in evidence against a party, was not a partner, agent or co-conspirator, and did not stand in such a relation as to make his declarations or acts admissible; and in other cases. In *Commonwealth v. Brown*, 14 Gray, 419, which was an indictment for causing the death of a woman by means of an attempt to procure a miscarriage, the judge at the trial decided, as matter of fact, on the preliminary question, that there was *prima facie* evidence that the defendant and two other persons were jointly acting in combination and concert, and aiding and assisting each other in carrying out a common enterprise of procuring an abortion, so as to make the acts and declarations of those two persons competent; and admitted the evidence; and then left the question to be determined by the jury, whether they were acting in concert with the defendant, or not, with instructions that, if so, the acts and declarations might be considered by them, otherwise

not. This course was held by this court to be correct (pp. 425, 426, 432), the court saying, "the conspiracy of the parties was first satisfactorily made to appear to the court." In *Commonwealth v. Crowninshield*, 10 Pick. 497, a similar doctrine was held. In all such cases the court, in deciding to admit the offered testimony, does no more than to hold that enough has been shown to make it proper to submit the testimony to the jury, leaving its weight and credit for their determination. The decision of the judge does not relieve the party offering the testimony from the necessity of establishing every material fact to the satisfaction of the jury.

See also *Commonwealth v. Scott*, 123 Mass. 235.

Commonwealth v. Waterman, 122 Mass. 43, 59.

Commonwealth v. Preece, 1 New Eng. Rep. 567; 110 Mass. 276.

Ormsby v. People, 53 N. Y. 472.

Swan v. Commonwealth, 104 Pa. St. 218.

1 Greenl. Ev. §§ 49, 111.

Stephen, Ev. Chase's ed. art. 4.

In this view of the law, it was not necessary that the court should find that the preliminary evidence amounted to full proof, beyond a reasonable doubt, that the prisoner poisoned her sister in pursuance of a general plan or scheme, in which the poisoning of Mr. Freeman was a later step.

We are further of the opinion that the preliminary evidence which was before the court was sufficient to warrant the introduction of evidence to show that the prisoner poisoned her sister, Mrs. Freeman. Certain facts were not in dispute. Prince Arthur Freeman, the person whom the prisoner was charged in the indictment with having poisoned, held a certificate of membership in a society which provided for the payment of two thousand dollars, upon his death, to the beneficiary named therein, with a power of substitution; his wife, who was the prisoner's sister, was named as beneficiary; she died on Feb. 26, 1885, after an illness of about three weeks; the prisoner called at Freeman's house in South Boston on February 20, and on February 23 went there to take care of Mrs. Freeman, and stayed till her death; immediately after Mrs. Freeman's death, Mr. Freeman, with his two children, went to live with the prisoner at her house in Cambridge; one of the children died in April; on or about May 13 Mr. Freeman appointed the prisoner as beneficiary under the certificate of membership; he died on June 27, after an illness of about six days, from arsenic; the prisoner, on Sept. 23, 1885, received two thousand dollars from the society upon said certificate. Prior to 1885, the prisoner was owing several hundred dollars which she was unable to pay, and for which she was hard pressed by her creditors, and which she paid out of the two thousand dollars so received by her. As tending to prove the plan or scheme on her part to obtain this life insurance money through the murder of Mrs. Freeman and then of Mr. Freeman, there was evidence to the effect that, before Mrs. Freeman's death, the prisoner knew of the certificate of membership, insuring Mr. Freeman for his wife's benefit; that during Mrs. Freeman's illness the prisoner expressed the opinion that her sister would never recover, and said that she (the prisoner) had had a terrible dream, and whenever she had a dream like that one of the family always died; that before, as well as after, Mrs. Free-

man's death, the prisoner expressed the wish to have Mr. Freeman, with his children, come and live with her, and asked different persons to urge him to do so; that on the day of Mrs. Freeman's funeral, the prisoner said that Mr. Freeman's sister, Mrs. Melvin, was very anxious to have him live with her, and that all Mrs. Melvin wanted was to get the insurance made over to her; but the prisoner said she (herself) had the best right to it, and it was her sister's request that it should be made over to her, and she wanted it; that on the same day she talked with Mr. Freeman about the insurance, wanted to know if it was made over to her, and he said it was not, but should be; that quite frequently afterwards she said she was afraid he would not make it over to her; that on June 22, the same day when he was taken sick (which was after it had been made over to her), she sent to the society to see if the papers were right, in case anything happened to Mr. Freeman, and whether she would get the insurance, and to see that all assessments were paid up; that the appointment for the money to be payable to her was recorded in the books of the society not earlier than June 23; that she also sent over to see about the insurance once or twice afterwards, before his death, and had an interview with the secretary of the society upon the same subject, in Mr. Freeman's presence, the day before his death, and was told that the papers were all right; and afterwards, when not in his presence, requested the secretary not to tell Mr. Freeman's sister about the insurance. This evidence certainly tended to show a scheme and plan, entered into before Mrs. Freeman's death, to have the insurance money made payable to the prisoner.

[Exceptions overruled.]

MOTION FOR A NEW TRIAL.

After some considerable delay, owing to the illness of the defendant, June 28 was assigned by Justices FIELD and KNOWLTON as time for the argument, before them, of the motion for a new trial, a copy of which is as follows:—

COMMONWEALTH OF MASSACHUSETTS.

MIDDLESEX, ss.

SUPREME JUDICIAL COURT.

COMMONWEALTH v. SARAH J. ROBINSON.

And now comes the defendant, after the verdict, and moves the court for a new trial in said case for the following reasons:—

First. Because the verdict was against the evidence.

Second. Because the verdict was against the weight of the evidence.

By her Attorneys,

JOHN B. GOODRICH,
D. F. CRANE.

This motion came on to be heard on the day assigned, before Justices FIELD and KNOWLTON. It was argued by JOHN B. GOODRICH, Esq., for the defendant, and Attorney-General WATERMAN for the Commonwealth. After an hour's argument by each the matter was taken under advisement by the court, and after a half hour's consultation, the motion for a new trial was overruled.

The defendant, upon being inquired of as to whether she had anything to say why the sentence of the law should not be passed upon her, made a long speech in which she protested her innocence.

The Court, by FIELD, J., then imposed sentence upon her as follows :—

It is considered and ordered by the Court here that you, SARAH J. ROBINSON, convict of murder in the first degree, be removed from this place and detained in close custody in the prison of this county, and thence be taken on Friday, the sixteenth day of November, 1888, to the place of execution, there to be hanged by the neck until you are dead. And may God in His infinite goodness have mercy on your soul!

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